A Senator of the Fifties

JEREMIAH LYNCH

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A SENATOR OF THE FIFTIES

D. W. Brockway

A SENATOR OF THE FIFTIES

DAVID C. BRODERICK *of* CALIFORNIA

By
Jeremiah Lynch

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"EGYPTIAN SKETCHES"
"THREE YEARS IN THE KLONDIKE"
ETC

San Francisco
A. M. Robertson
1911

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By JEREMIAH LYNCH

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TO

EDWARD ROBESON TAYLOR

THIS BOOK IS INSCRIBED AS
A MODEST TRIBUTE TO FRIENDSHIP

PREFACE

The destruction of San Francisco in 1906 occasioned the loss of many unique and interesting documents relating to the early history of California. The shock of the fire and earthquake caused the rapid extinction of several pioneers who helped to make that history. Moreover, in the opinion of the author, a number of existing books describing events occurring in the fifties are both incomplete and inaccurate.

Therefore, this work is a modest effort to supply these deficiencies before it is too late. Many living witnesses of incidents related have been consulted and all available sources of original authorities diligently investigated. The names of these persons and authorities will be found at the end of the volume.

Surely the deeds and memories of the men who founded the State of California should be preserved from oblivion.

JEREMIAH LYNCH.

San Francisco, December, 1910.

CONTENTS

CHAPTER		PAGE
I.	Early Days	1
II.	New York	29
III.	1849	41
IV.	Progress	61
V.	Conflict	81
VI.	The Committee of Vigilance	96
VII.	The Committee of Vigilance—Continued	117
VIII.	Senator	140
IX.	Washington	158
X.	Dissension	181
XI.	Provocation	199
XII.	The Duel	213

LIST OF ILLUSTRATIONS

David C. Broderick ..... Title Page
Mission at Pala ..... Page 2
Mission Dolores, San Francisco, 1856 .. " 14
William M. Gwin ..... " 32
San Francisco, 1849 ..... " 48
Sacramento, 1849 ..... " 50
Shasta City, 1855 ..... " 62
Execution of Casey and Cora ..... " 96
Fort Vigilance ..... " 112
David S. Terry ..... " 130
E. D. Baker ..... " 142
A Letter by Broderick ..... " 178
Los Angeles, 1857 ..... " 190
San Francisco, 1859 ..... " 210
House in which Broderick died ..... " 222

A SENATOR OF THE FIFTIES

CHAPTER I

EARLY DAYS

California, the richest district, with the most salubrious climate in the New World, existed quite unknown until the last few decades.

This isolation was due to its remote location by the Pacific Ocean far from civilization. The *conquistadores* discovered and ravaged the western coast of the southern continent, north to the tropics —including Central America.

They had followers, but no successors. With Cortez and Pizarro died the resolute, desperate courage and enterprise that made the Spaniards who conquered these territories, almost Romans. Napoleon said, "It is the man, not the men, who wins."

Unquestionably the sad end of the two marshals of the new empire, Cortez and Pizarro—the one received by his haughty sovereign with alternate ignominy and distinction; the other assassinated by his comrades to whom he gave wealth, victory and power—was poor recompense for adding a continent to the Spanish dominions.

In later years a few desultory voyages were undertaken northerly along the coast and several

military detachments were sent to the western and northern interior.

But no glowing legends of riches rivalling those of Peru or of Mexico were heard and transmitted by these explorers on sea and land. A vague rumor of "Seven golden cities" that existed or had existed sometime in these vast untrodden regions in the dim past, floated around the cloisters of the churches and in the barracks of the soldiery, and both church and state united in more than one effort to discover these fabled treasures of an unknown race. All that was found were some chaotic ruins that even yet exist and even yet are largely unexplored. The heat, difficulty of access, and dense vegetation have thus far saved the golden cities of Cibola from the time-destroying hands of the archeologist and antiquarian.

The ruins existing in Lower California, distant from the ocean, may yet yield valuable and accurate data respecting the earlier centuries of human life in those localities. Moreover, the tale told to the soldiers of these expeditions by the few aborigines whom they met was not hopeful for farther enterprise. Here were immense distances, fearful hardships, famine and thirst; and, at the end, shores washed by a foggy sea and peopled with a few naked savages. Hence viceroys and bishops desisted, and, for many lustrums, this beautiful Arcadia lay like a nymph of the forest, waiting.

MISSION AT PALA

Later the gentlemanly buccaneer, Drake, drifted up the coast while hunting Spanish galleons, laden with treasure from Peru en route to the Philippines. He careened his ships to clean and repair at a point some few miles north of the entrance to the bay of San Francisco. He thus passed unknowingly the ingress to one of the two or three perfect havens of the world. The waters where he disembarked are even now styled Drake's Bay. He found the far dwellers of this remote region dirty and affable. They lived on game and fish and were without raiment, although the climate with its misty vapors was by no means tropical. Penetrating only a short distance into the interior, he departed as soon as his vessels were repaired, seeking Spanish plunder on the high seas. Doubtless the published history of his voyage was soon accessible to the foreign conquerors of Peru and Mexico and served still more to dissuade them from uninviting sacrifices. So that from Drake, 1579, to Viscaino, 1603, the charm and beauty of California continued to remain secluded and unknown to an inquiring, intelligent world. At the latter date the Spanish navigator directed the course of his little flotilla northerly by the coast and discovered two principal ports—San Diego and Monterey.

Like Drake, he returned, bringing back a meagre tale of unpopulated lands, bleak shores and dirty, unenriched aborigines. Both of these intrepid and

skilful mariners, Drake and Viscaino, seemed somewhat apprehensive of danger, fearful of leaving their vessels and traveling inland. After all, they were sailors, not soldiers. Viscaino continued his voyage even as far north as what is now British Columbia, but everywhere encountered the same lifelessness and inhospitality.

Again, ages passed on; generations lived and died. The Atlantic Coast from extreme north to extreme south; from Labrador to the Isthmus and from the Isthmus to Patagonia, was mapped, plowed, tilled, cultivated; forests felled; lands peopled; ships built; cities constructed. Withal, this fairest province of California, lying the seas across from the oldest continent, where the Occident fully confronts the Orient over the wide, placid waters of the deep, remained still unknown, sleeping and waiting. An hundred and seventy years more were marshalled with the dead lustrums that preceded them. Not a vessel grazed her sands. Not a single sailor saw, from the swelling surge, the lofty mountain range, curbing the waters and bridling the storms. Not a single soldier or adventurous frontiersman trod her flowered glades or lofty summits crested with snow. In her beauty and lovely youth she remained hidden like a nymph in the garden of the Hesperides, until the coming of the padres. A strange wooing this, of the dainty, lonely maiden springing like Aphrodite from the

sea, by the shriven, tonsured, leather-girdled, venerable friars.

The Franciscans were the Jesuits of the New World, for the latter had been expelled. Just as devout, self-sacrificing and persevering, but more humble and modest, and without the domineering demands of the Jesuit organization, the Franciscan friars were singularly adapted for converting and colonizing the equally gentle and harmless indigenous population of California. The Franciscan, Junipero Serra—a native of Majorca, but who had lived his life in Mexico—was selected by his order to lead the ecclesiastical members of the expedition.

The Viceroy of Mexico gave them a guard of fifty soldiers. It was also provided that each priest should receive four hundred dollars a year for sustenance. The crown and the cross toiled together under the flag of Spain. The single vessel, sailing from San Blas, conveyed two hundred cattle. These animals were the ancestors of the hundreds of thousands that a few years later wandered from end to end of the land; for in California was abundance of wild game—deer, elks, bears, antelopes—but neither cattle nor horses. Sierra and his company landed at San Diego in 1769. A detachment was sent northerly to locate the port of Monterey, the second of the two bays discovered and described by Viscaino in 1603. The monks and

soldiers marched on foot, with the scant supplies loaded on horses.

In some mysterious manner they passed unseeing, Monterey Bay. To find water and grass the cavalcade was often compelled to march miles from the coast with perhaps dry, lofty mountains intervening, though, of course, as the ocean was the guide, they feared to venture too far from its shores. But Portolá, the commander of the expedition, pressed on seventy miles farther north until, with his soldiers, he discovered the superb, unrivalled bay and harbor of San Francisco. On the return journey, which was difficult and dangerous because of the scarcity of supplies and the appearance of scurvy among the party, he sent his report from San Blas to the viceroy.

Serra, who had remained at San Diego during Portola's expedition, at once commenced the erection of buildings of the style and architecture improved by the Moors in Northern Africa, taken by the Arabs to Spain and later, with slight modifications, transferred to the New World. With red roof tiles, mud, and rough, sun-dried bricks were made into solid structures of one or two stories —admirable dwellings for the denizens of dry, hot climates. They are inexpensive, and easy to repair, and if one of the mission buildings be only partially destroyed it is so facile to

construct another. Water, earth and sun are the only factors.

During the next decade the Franciscans built several missions, distributed from San Diego to Sonoma. Each mission had a moderate though adequate guard of from four to ten soldiers. The friars were architects of the earthly, as well as of the heavenly paradise, for, though Serra himself, with proper ceremonies, laid the foundation stone of every mission, yet he resided mainly in San Diego and the friars allocated each mission and aided only by the converted Indians, planned and constructed all the edifices. It was not all food, peace and sunshine. At Paso Robles the diet for one winter was acorns with green herbs for a flavor.

The packet boat that left San Blas annually, with supplies for the immigrants missed a year or two. Monterey Bay had not yet been re-located. It was conjectured that sands from the sea, aided by earthquakes, which even then were frequent, unwelcome and terrifying visitors, had destroyed its existence, and what else might not happen! There were no cattle, nor horses save the small herds transported thither by the Spaniards themselves. They did not know that most delicious wine could be made from the wild grapes abounding in the autumn glens—that the dry, hard soil, touched by the magic of water, would rival a world's garden and supply a world's granaries—that the wild and

rugged hills with their steep and picturesque cones, and the mountain ranges, crevassed by deep-shadowed glades, concealed in their inmost recesses the golden ransom of a continent. They felt themselves exiles, more remote than Juvenal on the distant islet of the Nile, with no consolation but religion, faith and philosophy.

While Serra was temporarily absent from San Diego, Indians attacked the mission, slew several soldiers and churchmen and completely destroyed the partially finished structures. Padre Junipero, when told of the catastrophe, exclaimed: "At last our ground is watered by the blood of martyrs. Now we can go on and build and rebuild, for the land is consecrated to God." He hastened to return to San Diego, but, on his arrival, was informed to his chagrin, that the viceroy contemplated abandoning San Blas as a seaport for California and forward supplies overland through Sonora and Lower California, a distance of fifteen hundred miles. This insured practical isolation and destruction of the missions. Serra, who, while a profound churchman, was also a man of energy, resolute and undaunted, instantly determined that the high purpose "to whose success and enduring existence he had consecrated his earthly labors," should not be ignominiously lost. He directly started on foot with only one Indian companion for the palace of the viceroy, where he arrived after a most fatiguing

and hazardous journey of four months over arid deserts and through unknown passes and defiles in the gaunt, barren mountains, without pausing to rest a single day. Fortunately, for such endurance and determination deserves better than failure, the vacillating viceroy had been succeeded by another of different mould.

The intellectual friar completely captivated Bucareli with his vivid and enthusiastic description of the ample plains, equable climate, magnificent mountains of California, and the incomparable harbor of San Francisco. The new viceroy, enchanted to add so noble a domain to the realms of Spain, directed that a large vessel should be properly equipped and placed at the disposal of Serra, who loaded it at San Blas with necessaries for the new colonies.

The viceroy also despatched a platoon of fifty soldiers with leather cuirasses, thus distinguished from the lighter armed troops of the Spanish army, overland to San Diego, whence they were to be distributed to the other missions, as instructed. The old friar returned resplendent with joy and success to his doubtful and despondent colleagues. Such was the energy inspired by his presence, both in converting and constructing, that when Father Junipero Serra died at San Carlos, in 1784, only fifteen years after his advent to Cali-

fornia, he left sixteen missions and ten thousand Indian neophytes.

These Indians had hitherto professed no really definite religion. Indubitably they were as bestial and degraded as the lowest of American aborigines, morally, mentally and religiously. Other tribes possessed some faith; the Californian Indians had none. Marriage was a prostituted rite. At San Francisco the monks found an Indian married to three sisters and their mother. The natives fished and hunted, but planted nothing; and, even on the seashore, where there are cold, foggy days, and many of them, wandered without covering.

They roamed over the immense territory in sparse numbers, killing with the arrow, elks, bears, deer, ducks and antelopes. Their existence was entirely nomadic, except on the seashore, where they built huts of reeds and twigs, adjacent to excellent fishing stations. They had no history, no memories, no known antecedents. Unwarlike, unoffending, docile and mentally inert, they became laborers and Christians, with equal readiness and alacrity. Faithful to the padres, they were warmly attached to their local missions and as they increased in numbers became correspondingly useful and serviceable.

Intelligence was not one of their attributes nor could they be appreciably educated. But as horsemen, ground tillers and keepers of the great herds of cattle, horses and sheep that gradually accumu-

lated in the environs of the numerous missions, they were excellent and reliable.

Serra saw his work well commenced before he died. He would never take medicine and even with a lame leg walked hundreds of leagues. When remonstrated with by a muleteer on his carelessness, he said: "Well then give me the same remedy that you apply to the sore leg of a mule, for I am no better." He preferred sleeping in the open, especially when traveling, and used to say that it prolonged his life a dozen years to thus live. He always preserved both the independence and suzerainty of the church over the military, and constituted himself chief of all the inhabitants of California, a privilege that was sometimes claimed, but never exercised by his successors. His letters show courage, devotion and a prescient intelligence.

He said that "California will be richer and greater than Mexico" and evinced no desire to depart and return to Spain or Mexico, but directed where his remains should lie; and at San Carlos he reposes in tranquillity, undisturbed by the sea birds that forever sail above and around his mausoleum—the Founder of California.

Like some dead people's fortunes which increase manyfold, too late for their enjoyment, the missions, after the demise of Serra, advanced amazingly in power, wealth and produce.

In 1824 the numbers of cattle and other farm

animals attached to the twenty-three missions exceeded a million, the progeny of the few head taken in by Serra and his company five decades before.

The native wild grape had been pruned and grafted until it yielded a delicious quality of red wine, stronger than European grades, but pleasantly savored.

Many kinds of grain were grown on the ranches near the missions and fruit of every description abounded. Wild flowers covered the glens and glades; copses of fir and birch clung to the sides and summits of the towering mountains; game in abundance wandered over the grassy meadows, and the eternal sunshine of California—gentler and more resplendent than that of either Italy or Egypt —cheered and chastened the missionaries. Leaving far distant Spain, to cast their lot with the savages of this most remote and unknown quarter of the globe, they had found an Arcadia without parallel.

But everything good and well becomes bad and ill: nothing remains changeless, and this era was the apogee of the friars' peace and tranquillity.

A few years previously, Mexico had become independent of Spain. With political came religious independence, and the rulers of the new republic heard with envy of the monks' prosperity in California.

Every friar, by the terms of the compact between Bucareli and Serra, should have received

from the government the annual stipend of four hundred dollars; but, for years, nothing had been paid. The vessel, sailing every twelve months from San Blas to California, was laden with supplies ordered, and liquidated on arrival by the churchmen. Indeed the missionaries could well do so. From the sale of hides alone a fund of a quarter million dollars in specie had been accumulated, and their other resources have been indicated. Moreover, all the Franciscan friars in California were of Spanish birth and the newly enfranchised Mexicans did not wish to acknowledge allegiance to either the Spanish throne or church. So up from the south came a Mexican governor, who constituted his capital at Monterey. While in apparent accord with the Franciscans, yet he granted them few privileges and treated them with rigor. They in a measure, claimed the whole country by right of discovery and settlement; but the church in every land must, like everything else, lie under the law, which protects both those who believe and those who doubt. Hence, the governor repudiated this assumption and invited settlers from Mexico and other countries, making large grants of land to the most potential newcomers. This encouraged immigration, and the immigrants enticed Indians from the missions to enter their own service.

The governors, for one succeeded another with almost grotesque rapidity, were only consistent in

one phase officially, and that was, hostility to the friars and their habitations. In 1846, when the Americans conquered California, the missions were even then decaying. The contrast between 1824 and 1846 was pathetic, but otherwise, the Californians, as those Spaniards and Mexicans who dwelt permanently were called, continued to thrive and prosper. They were scattered over a distance of five hundred miles, all the way from San Diego to Shasta, and, with the land, animals and Indians filched from the poor padres, lived like veritable hidalgos.

Riding like centaurs, on horses that were more enduring than the purest Arab, they would sup a hundred miles from where they breakfasted and never leave their own demesnes. In the contest with the Americans they numbered several thousand fearless horsemen, and conflicts of greater or lesser importance were fought in the same year, 1846. The Californians were not enamored of Mexico and knew they were too weak to exist as an entity. An inchoate prejudice against Mexico smouldered at the period of the American irruption, and therefore, after the taking of Los Angeles by the enemy, the Californians quietly disbanded and returned to the enjoyment of life, certain that the Americans would leave their lands and other property untouched. The treaty of 1847 between Mexico and the United States ceded California to

MISSION DOLORES, SAN FRANCISCO, 1856

the latter and it became henceforth an integral portion of our country.

Only a year prior to the gold discovery, while the land yet nestled in the lap of oblivion, Colonel Frémont, commander of volunteers and the Jason of California, was hastily summoned from Los Angeles to Monterey. Leaving the former place at early dawn with two companions, he rode one hundred and twenty-five miles before halting for the night. They had nine horses as a caballada, driving six ahead of them, running loose on the trail, and changing every twenty miles. The second day they made a hundred and thirty-five miles. On the third they did not start until eleven o'clock, yet travelled seventy miles, and on the fourth day, they dashed into Monterey at three o'clock, having ridden ninety miles since morning, and four hundred and twenty miles in four days. Frémont and his party left on their return, the next day at four of the afternoon, galloping forty miles that afternoon, a hundred and twenty next day, and a hundred and thirty on the two succeeding days, arriving in Los Angeles on the ninth day from their departure.

The distance going and coming is eight hundred and forty miles and the trail for the entire distance led over steep hills, down gloomy defiles and precipitous declivities, and across wild unpeopled valleys, where only the sun and compass guided

them. The actual hours in the saddle numbered seventy-six, about eleven miles an hour.

Frémont rode the same horse forty miles on the afternoon he left Monterey and ninety miles more the day following, thus making one hundred and thirty miles in twenty-four hours on one steed.

This charger, then left loose without a master, led the cavalcade thirty miles farther that afternoon until they came to his pastures. With the exception of this one relay from Monterey the men rode the same nine animals going and returning. The horses were unshod and carried with riders the heavy Mexican saddles and bridles then universally used. The whole adventure rivals Alexander's pursuit of Darius in Bactria.

No Arabian steeds could surpass this feat. The California horses were relatively small, but with deep withers and broad flanks. Except in weight and color they very much resembled the Arabian stallions to be seen in the streets of Cairo. They were fed very little grain, but the rich grasses of the valleys near the shore were heavy and sustaining.

The legend of the lands, attractions and fertility, had floated meanwhile across the continent and men with and without families were traversing the plains from the western border states.

In 1846 there were some three hundred volunteers in the American ranks at Monterey, most of

whom had quite recently arrived. Of course the knowledge that California was under the American flag served still more to accelerate the hegira and during 1847 people from the "States" came in moderate numbers. It was in the winter of this same year that a wagon train from Missouri was caught in a driving storm near a small frozen lake on the summit of the high Sierras. Half of the number perished and some of those who survived did so by becoming cannibals. This is well established, and be it remembered that the tragedy occurred before the gold discovery. The sheet of water was named Donner Lake for one of the dead.

A thousand volunteers had enlisted for the war and leaving New York City sailed around the Southern continent and landed in San Francisco in March, 1847, to find the country tranquil and all resistance ended. They disbanded and dispersed over the interior, a number remaining in San Francisco, which was rapidly superceding Monterey, though the latter yet remained the capital. Fortunately for these patriotic Americans the discovery of gold a few months later furnished them a boundless opportunity.

Gold was found by accident in January, 1848, on a tributary of the Sacramento River, a few miles from Sutter's Fort. It is strange that the intelligence of this marvellous occurrence should have traveled so slowly, even in California. We read

in the journal of an American navy chaplain at Monterey, as late as May, that "our town was startled out of its quiet dreams today by the announcement that gold had been discovered on the American Fork," and later, June 12th, "A straggler came in today from the American Fork bringing a piece of yellow ore weighing an ounce. The young dashed the dirt from their eyes and the old from their spectacles. One brought a spy-glass; another an iron ladle; some wanted to melt it; others to hammer it, and a few were satisfied to smell it.

"All were full of tests and many who could not be gratified in making their experiments declared it a humbug. One lady sent me a huge gold ring in the hope of reaching the truth by comparison; while a gentleman placed the specimen on the top of his gold-headed cane and held it up, challenging the sharpest eyes to detect a difference.

"But doubts still hovered in the minds of the great mass. They could not conceive that such a treasure could have lain so long undiscovered. The idea seemed to convict them of stupidity."

No wonder: it was so startling and stupendous. The world yet trembles under the new system of life and existence then created.

But a month later he writes differently:

"The gold fever has reached every servant in Monterey: none are to be trusted in their engage-

ment beyond a week, and as for compulsion, it is like driving fish into a net with the ocean before them. General Mason, Lieutenant Lanman and myself form a mess; we have a house and all the table furniture and culinary apparatus requisite, but our servants have run, one after another, till we are almost in despair; even Sambo, who we thought would stick by from laziness, if no other cause, ran last night, and this morning for the fortieth time we had to take to the kitchen and cook our own breakfast.

"A general of the United States Army, the commander of a man-of-war and the Alcalde of Monterey, in a smoking kitchen, grinding coffee, toasting herring and peeling onions!"

Three days later:

"Another bag of gold from the mines and another spasm in the community. It was brought down by a sailor from Yuba River and contains one hundred and thirty-six ounces. It is the most beautiful gold that has appeared in the market. My carpenters at work on the school house, on seeing it, threw down their saws and planes, shouldered their picks and are off for the Yuba. Three seamen ran from the *Warren,* forfeiting their four years' pay, and a whole platoon of soldiers from the fort left only their colors behind.

"One old woman declared she would never again

break an egg or kill a chicken without examining yolk and gizzard."

So even in California, one of the most momentous events in the history of mankind was at first doubted, discredited and deprecated. Well it might be, for in my reading I cannot recall a similar occurrence. Gold washing, it is true, has always been practiced and the metal found in small quantities.

The Egyptians excavated trenches for gold near the Red Sea, the remains being yet visible, and English capital is today exploiting the Pharaohonic mines. But these were government properties working convict laborers over a very limited area. Other parts of the world had also yielded gold, but never was it until now discovered in such masses so free to every one and scattered over such a diverse territory. We must remember that this was before Australia, The Klondike and South Africa.

Our minds today are habituated to these and many other marvelous happenings and inventions of which our forbears never knew or dreamt; but the finding of gold in California in 1848 startled the world as nothing since or before has done. Perhaps it was the most astounding discovery during the Christian era and certainly it is only today that we are really becoming concerned about the recent vast increase in the precious metals.

Nevertheless, as the intelligence percolated through channels and arteries of communication to distant countries, with all the alluring possibilities of a fortune picked from fertile earth, people appeared like vultures from the clear sky. They came across the Isthmus of Panama and around the Southern continent and over the Northern continent. They came by land and sea, on foot and horse; by sail and steamer.

From east and west and south the lure of gold enticed them as it should, for with gold we purchase everything but happiness, and that belongs to none. There were more Chinese in California in 1849 than Europe had welcomed in a thousand years.

Flour came from Chili and with it Chilians, Peruvians and throngs of Sonorians. These Latins dug all day and gambled all night. Their principal rivals were the Chinese, but the latter did not acquire the same privileges. It is related that a small party of Americans, traveling to the goldfields, encountered a number of returning Sonorians. These had tied rags on their blistered feet and looked forlorn and wretched, driving skeleton mules. They were starving and begged for food. A little pork and biscuit was offered by the incomers and the Sonorians took from the back of one of the mules a bag of gold and insisted on giving a a couple of pounds in exchange for the meagre

supply. They had five hundred pounds of gold on their perishing animals, including one mass weighing twenty-three pounds, yet such was their improvidence that they might have perished, with only the metal for companionship.

Two men who gambled away at night the gold they dug during the day, desperate, left Tuolumne. Presently they descried a couple of returning miners sleeping under a tree. Approaching stealthily they shot the sleepers, looted the gold and fled south, avoiding Stockton and camping in the hills.

The next day they encountered three men who had just deserted from a United States vessel of war at San Francisco. The five stayed for the night with an English settler by whom they were kindly entertained and who frankly told them of his success at the mines.

After leaving in the early morning, they counselled, resolved together, and hastily retracing their steps, surprised, killed their host, and then inhumanly murdered his wife, children, and Indian servants, in fact, every human being on the ranch, to the number of twelve. Gathering the gold, they fled, but faster followed the avengers when the woeful tragedy was known.

Mounted on fleet California steeds, the pursuers overtook the fugitives by the sea, south of Santa Barbara. One of the outlaws was slain and, a second,

finding escape hopeless, sprang into the deep waters that received him in an everlasting tomb. The remaining three surrendered and were tried at once by an impromptu jury of twelve citizens chosen from the victors. The gold dust was easily found among their slender effects. The crime was proven and admitted. The jury promptly sentenced them to death and before sunset the three assassins were dangling at the end of a tree branch quietly waving over the waters of the Pacific Ocean far below. This I believe was the first case of lynching after the American control and it occurred in 1848.

There was no law to try assassins, no courts to condemn them, no prisons in which to incarcerate them. The first and best (because just) mandate is to preserve society by punishing criminals. Life for life is a decree that will never be forgotten, and if the tribunals do not enforce it, men will. The grave is the only prison that should enclose a murderer.

Remote as was the goal, half of a long year from New York and Europe, except via Panama, yet came the world, ever thronging and thronging. The caravan of wagons extended over the valleys and topped the mountains from Missouri to California.

Ships sailing from New York, sweeping by the misty, rocky, stormy coasts of Terra Del Fuego, constituted a continuous fleet. The early establishment of a double line of steamers with the Isthmus

as a bridge made transportation rapid and convenient. Each person, wagon, animal and vessel was laden to his or its capacity. There were no drones, animate or inanimate. Withal, during that extraordinary year 1849, though forty-four seagoing vessels lay empty in the bay of San Francisco, tides swaying their silent decks with the coming and going of the moon—flour in the gold fields sold at two dollars, coffee four dollars per pound, and eggs at one, two and three dollars each. On those forty-four vessels, whose crews had deserted—losing in many cases a year's pay—only the watchmen remained, for even the captains and other officers had secretly absconded. What wonder when lucky miners uncovered a thousand dollars between sunrise and sunset—and no one gained less than twenty dollars if he diligently dug! Twenty dollars a day to sailors whose wage was the same sum monthly! In the calm, warm summer and autumn, the miners, though not entirely acclimated, retained good health. There is nothing harmful in sleeping under the shadowing limbs of a lofty pine covered only by the starlight.

And these men were young. The average of the arrivals in that sparkling year of 1849, California's birthday, did not exceed twenty-five. They resembled the soldiers of Napoleon in his first Italian campaigns. They had come far, had nothing but

youth and courage and therefore ventured much and yet little.

The incomprehensible price of food obtained only at the mines, several hundred miles from the seaboard. All supplies were transported on the backs of animals and men over a dry, dusty, hot, broad and still broader plain, and then up sheer acclivities and across the soaring mountains.

The hopeful horde, laden with mining and cooking utensils, swarmed the roads leading to their paradise, singing, cheering, jesting—the happiest, heartiest, merriest crusaders since Richard of England. It was not hardship, sleeping under a California sky. No rain in the summer months made the days pleasant, though dusty. Many of the successful gold hunters returned to San Francisco after a fortunate season and incredible stories are legendary of their gambling and revelries. They drank like Alexander's officers, banqueted like Lucullus, and dissipated like Roman patricians.

The town of San Francisco embraced only two or three squares, including frame dwellings and tents. To complete a certain structure lumber was bought at a dollar per foot.

After the edifice was occupied, a Methodist clergyman was granted permission to hold service. Though gambling tables, at which the games never ceased, encompassed him, he was listened to with

respect and attention. A liberal collection was made directly and handed the minister by an old sailor, with the comforting observation: "Parson, that was a damned good sermon!" While so distant from the world these men of '48 and '49 did not repine. It was before the era of murders and vigilance committees.

Gold was abundant and all were young, buoyant, and hopeful. There existed neither police, society, nor clubs; yet good order was maintained. The alcalde had plenary powers which he exercised with discretion. The newly-arrived sometimes fared hardly. On one occasion a man secreted a small quantity of gold dust under the sand of a street. He then took a pan and began "prospecting." Presently he very naturally came to his deposit and after uncovering the sand and washing it in the stream hard by, lo! there was the gold. A number of strangers just off a steamer at once went to the nearest shop, bought pans and patiently worked all day—without, of course, finding anything—only to learn in the evening the whole ruse, together with the fact that the shopkeeper had sold them all his tin pans at about ten times the normal price—"a Yankee trick."

The necessity of an orderly American administration was recognized. California was a territory governed by a military officer appointed by the President. But his authority was general and not

local. By the summer of 1849, myriads peopled the country, extending from the gold fields to the seacoast. Conventions were held in the several localities, delegates elected and those chosen assembled in Monterey, where, after several weeks of discussion, they adopted and submitted to the populace a framed constitution for the embryo State of California. Eight of the forty-eight delegates were native Californians of Spanish descent—no inconsiderable proportion—which exhibits very clearly the sincerity and cordiality with which the old aristocracy fused with the new life and nation.

The constitution expressly prohibited slavery and one of the forty-eight delegates was William M. Gwin. A month later the people sanctioned its authority by an almost unanimous vote, and on the convening of the first California legislature at Monterey, two United States senators, John C. Frémont and William M. Gwin were elected. Gwin came to California from Mississippi in 1849. Frémont had led the American volunteers with courage and success during the short war of 1846 between the native Californians and the forces of the United States. By chance allotment between the two men, Frémont's term would expire in 1851 and Gwin's in March, 1855.

Under the constitution of the United States they could not be recognized by the federal Senate until after Congress had approved the constitution of the

State of California and the President had announced by proclamation its entrance to the sisterhood of states, which latter final preliminary was promulgated in September, 1850, when California became the thirty-first state in the federal union. One of the local Senators from San Francisco resigned shortly after the session had commenced. An election was held to fill the vacancy and the successful candidate was sworn in on the 24th of January, 1850. His name was David Colbert Broderick.

CHAPTER II

NEW YORK

When Broderick was fourteen his father died. From Washington, D. C., where Broderick was born, the family had removed to New York City.

The parent was a stone artisan and at his death the fatherless boy found but little saved to support his mother and younger brother. He began the struggle of life early, very early, and in a sombre way. He apprenticed himself as a stone cutter—his father's calling—and remained with his employer faithfully during the five years of his indenture. There were no night schools, and the boy worked all day and every day plying this humble vocation, with the winds and the sunshine as daily companions. He grew strong and reliant. He had few boyhood comrades and no adventures. In fact he seems never to have been a boy. From the beginning he was brooding and thoughtful.

Christopher street and the other streets near by were the scenes of nightly brawls, quarrels and rivalries between the younger men who lived in the locality. Broderick was one of the rudest, roughest, most aggressive and truculent. He was ever ready for a fight and whether he whipped or was

whipped (and both occurred many times) he was willing and undaunted for the next fracas.

After he became United States senator a few of his early conquerors foregathered near the favorite resorts and told again and again "how they had licked Dave."

The fire engines of New York were handled by volunteer firemen whose principal function was not alone to fight fires, but everything else, especially other firemen. To the chief headship of one of these engine companies Broderick fought his way, as, in somewhat different circumstances, did Spartacus of old. He became foreman of No. 34 when he was only twenty.

With this position as a lever he entered into ward politics and soon became distinctive as one who could fight; gain and keep friends and promises.

Directly he was of age he was appointed to a position in the federal service, and, as has been done frequently since by others, perhaps his most onerous duty was to draw the salary. He certainly found leisure to keep his engine and company the most complete in its equipment and discipline in the city; to attend every ward meeting of his party, where frequently there were blows as well as words, and to own a saloon.

After all, no one's career is as one could wish. We have all done, perforce, things we would not have done willingly. It is only a question of men-

tal or moral vision whether one trade is better or worse than another. Keeping a grog shop may be a misfortune, but it cannot be a crime. Broderick kept one and then possessed a second, finer and larger than the first. Yet he never drank a drop of spirits from birth to death. His customers were principally firemen and local politicians.

His mother died and a little later his younger brother was accidentally killed. Broderick was left entirely alone. Years afterward in the Senate he said that "he did not know a single human being in whom flowed a drop of his blood." His ancestry was Irish and people of that race are usually prolific, but the man seemed doomed to be alone—lonely through life.

Gradually his thorough application to whatever he essayed won him friends, adherents and standing. He became the representative for Tammany from his ward; was given consideration by his political superiors; and, when only twenty-six years old, one year above the constitutional requirement, was made the regular nominee of his party—the Democratic—for Congress. But Broderick had the faculty of making more bitter, rancorous and vindictive enemies than most men that one reads of in modern political life. He was stubborn, positive, unrelenting, and unforgiving. While not quick with his brain and tongue, he spoke indeed rather distinctly and de-

liberately, yet his manner was repellant to those he did not like and it was difficult for him to be diplomatic.

These personal characteristics so well recognized in his later California career were part of his gloomy being and, even in New York at this early stage, made him friends who would die for him and enemies who would make him die if possible.

Broderick was the regular nominee of the Democratic party, which was largely superior in numbers to the Whigs in the district; but an aristocratic Democrat ran as a third candidate, thus dividing the Democratic vote and electing the Whig.

At that era a revolt from the party organization was rare; people were not so reliant and free from party servility as today; the fetich of a name was worshipped and so the gravity of this defection from Broderick was pronounced. Perhaps an anecdote will index his character and why he possessed such ruthless adversaries. President Tyler had received and accepted an invitation to visit New York City. A committee of city officials, accompanied by eminent foreign guests, embarked on a steamer to meet the President on the New Jersey shore. Although elected a Whig, Tyler was coquetting with the Democrats, and so, Tammany Hall also selected a committee, or rather two committees, to tender homage to the President.

Wm. M. Gwin

One committee represented the ultra aristocratic element—for Tammany was then respectable—and the other was also a Tammany selection, being made up of young men as distinct from the old men—in other words, the classes against the masses. Broderick was of this second committee, which was expected to gaze, be humble and silent. However, the forty sachems—twenty and twenty—after disembarking from their steamer, walked to the President's residence and, while the mighty rich were awaiting on the lawn the President's appearance, Broderick strode to the door alone, opened, entered and presently returned with the President of the United States on his arm. Conducting Tyler to the astounded group he saluted the President and then said in the same loud, clear tones as when directing his fire laddies at a conflagration: "Now men form a round circle and the President will talk to you." For a moment no one moved, so completely aghast were they, until one of the immaculates said, like a philosopher: "Come, gentlemen, give attention to the President," and Tyler delivered a short address. But even then Broderick was not done. After the President ceased he very naturally turned to Broderick as the leader, and the latter, quietly taking the President's arm with an injunction to all Knickerbockers and firemen to "form the line of march," led the way to the landing, whence the tardy boat containing the real city

committee, with its music and platoons of uniforms, had just arrived.

Broderick was hardly persuaded to surrender his prisoner to the other committee, as he hoped to take him in the Tammany boat to New York. He had, however, the grim satisfaction of balking his aristocratic enemies. Not bad for a young man of twenty-five! But it cost him a seat in Congress.

Writing of these days, Gen. Daniel E. Sickles says: "Though I was a member of the opposite party, I was so impressed with Broderick's strong personality and with his prospect of splendid usefulness should he be sent to Congress, that I worked and voted for him. It was not until after the election was over that he knew of my efforts in his behalf. When he did find it out he came to me and thanked me for my support and pledged me his aid if I should ever need his services. He renewed this pledge just before his departure for California. I remember that in his gallant way he said to me: 'If you ever need me I will be your slave.' In bidding me good-bye he told me that if he ever returned to the East he would return as a United States senator from the new and untrammelled state of California. This he did."

Let it be remembered that when Broderick expressed this resolve there was no state of California, nor did it exist until nearly two years later.

Evidently he had faith and confidence in the future. No one succeeds who does not fight to win.

After his defeat for Congress he continued his previous vocations.

At the next state election the Democrats were beaten, which made his chance of success dubious, even if nominated a second time.

Then came tidings from far-away California. Stevenson's battalion of New York volunteers, who arrived in the enchanted land before the gold find, sent alluring letters to their friends. Colonel Stevenson, well known to Broderick, had written: "Come, leave there, and try this new land, this El Dorado."

Around him were friends and acquaintances disposing, like Alexander, of all their effects and thronging every steamer. What was he to do? His political future looked blank. The life he lived and his daily associations were repugnant. He longed for a broader scope and a higher terrace on which to crown a career. Above all the lure of a United States senatorship fevered his brain and made more intense his restless, ambitious disposition.

These were the days of the great triumvirate—Webster, Clay, Calhoun. It was worth while to sit among those men and be one of them. They were free as the eagle, unbound, unbought, belonging to nobody but themselves, yet forced to exercise

the best powers of mind and intellect to be noticed and commended among their colleagues in that exalted station.

Broderick never sought money. His characteristics were essentially governing and not commercial. Success in one is difficult; in both still more. He chose the first. Therefore his present existence was doubly distasteful.

Yet it is not so very tranquillizing to desert the old life, home and associates, perhaps forever, and to seek a new land, new life. Hesitancy was one of his missing qualities. He lingered and lingered despite his characteristic determination, which ordinarily made it easy for him to resolve and execute. At length, one morning, he broached all his casks in the street, saying that he never would "sell, nor drink liquor, smoke a cigar, or play a card." That vow he kept in all the dissipations, allurements and excitements that environed his California existence.

He left New York on a steamer and debarked at Chagres. There was no railway in 1849, and travelers went up the Chagres River by boat and thence by land to Panama. It was a wet, dirty, hot, unhealthy journey and the miseries of the crossing have never been adequately portrayed.

At the very outset, the town of Chagres itself was a dreadful place. On the thresholds of the doors and in the huts were thrown hides, bullocks'

heads, fish, cattle and other animals putrefying in the damp, tropical atmosphere. Part of this was food.

No one remained in Chagres more than one night, but at the risk of a malignant fever. The next day and the next and again a third were spent poling up the small, narrow, tortuous stream, tormented by gnats and mosquitoes. On shore the ants came for their loot.

Cholera and yellow fever were epidemic on the Isthmus, especially in the rainy months. It is on record that of twelve gold-seekers arriving at Chagres from an English port but one appeared at Panama a week later. The eleven others died en route of yellow fever. Fifty thousand adventurous young men invaded California that year and a moiety toiled through the dark, fever-dripping forests and up the miasmatic stream. One hundred and fifty years previous, Morgan and his buccaneers made the same desperate struggle and for the same guerdon—gold.

We have not nor we will not change. Yet these death-clinging paths lay through a thick jungle of palms, teaks and every variety of rich fern. After rain storms the refreshed air would be mellow with a sweet fragrance distilled from the thirsty epiphytes. Fortunately Panama was relatively healthy, and no one stayed or rested between Chagres and Panama except those who still rest on.

Ships clustered at Chagres from many different world lanes—Britain, France, Italy, New York, New Orleans, Havana and other places, but on the Pacific shores Panama was the only point connected by steamers with the Mecca—San Francisco. Hence Panama was always thronged and crowded and vessels at this early period were far more numerous on the Pacific than on the Atlantic.

These were pleasant days for the old Spanish town and wanderers have complacently discoursed of the monkeys, bananas, cock-fights and bull-fights; of the old cracking walls with the older brass cannon that had not been discharged within the memory of any living man; of the quaint church and quainter houses, and of narrow sun-shaded avenues where the mandolin and guitar accompanied the sloe-eyed senoritas warbling "La Golondrina." But none of these terrors or pleasures seem to have disturbed or interested the moody, firm-faced young man from New York, who crossed the deadly Isthmus unscathed, speedily leaving Panama and coming up the Coast without mishap.

On a fair June eve in 1849 the *Stella,* rounding the southerly rocky point, with the northerly bluffs extending far to the westward, passed through the Golden Gate, encompassed by treeless, grassless, verdureless hills and, sweeping from east to south, ceased from her long voyage in the placid depths of San Francisco harbor.

On the far eastern horizon a range of mountains, separated from the waters by a wide and charming valley, extended for miles north and south. The bay itself, one of the three safest and most commodious havens in the world, stretched for leagues and leagues to the east, north and south and from the west the setting sun's rays glided through the straight and narrow entrance, illuminating with mellow radiance this portal of the Land of Gold. Of the multitudes who thronged the muddy shores, restlessly awaiting the arrival, with its messages of loves and tears from distant kindred and friends, coming o'er the world's wide compass, were some who in later years gathered sweet and bitter leaves from life's tree. But of all these adventurous Argonauts there was none whose future existence and death was destined to be more weird, tragical and picturesque than that of this newcomer, who with sedate visage looked steadfastly upon the panorama that stretched before him in the place whither he had come to win and to die.

He was twenty-nine years old, of good height and weight, with superb physique and strength. Few men could cope with him in wrestling and he was an excellent boxer. His ruddy brown beard covered his face, and his hair, slightly dark, was plentiful. It was not then the custom to wear a moustache. Indeed the Southern statesmen followed Clay and Jackson's example, who, like the Romans, went

with shaven faces; but the Northerners wore beards. Even then, and in remote California, the differences and prejudices between the two sections, culminating a decade afterwards in the Civil War, were clearly visible in their personal appearance.

Broderick's large mouth was filled with strong, white teeth, but his heavy upper lip was unpleasant, and his sombre countenance not cheerful. He looked like one always thinking; one of those men whom Caesar would have disliked. His steel-blue eyes met one, not glitteringly, but with a depth and steadfastness that strongly impressed.

One can not look at his face and call it attractive, but it is the face of a man who thinks, resolves and acts without taking counsel. One can understand that it was difficult to disagree with him in conversation, he was so positive, not to say dogmatic or domineering. Like Henry II, he seldom smiled and witticisms were foreign to his nature. He had come resolved to sacrifice all milder pleasures and endearments on Ambition's altar. He won, but the price was death.

CHAPTER III

1849

In the good year 1849 the boundaries of California were not adjusted, nor its exact extent known. Today with seven hundred miles of coastline backed by over seventy leagues of valley, plain, and mountain, it yields only to Texas in area, of all the fifty commonwealths embraced in the nation.

The most northerly of the twenty-three missions built by the padres were on the upper borders of San Francisco Bay. These were also the last. They were gradually constructed from south to north, each mission being about a good day's canter from another; but after the last one at Sonoma was founded came the Mexican governors, then the gringos, then chaos.

A confirmation is afforded by observing the local nomenclature. South of Sonoma are sweet sounding, sibilant, Spanish accents. But north of Sonoma come the harsh, unyielding American words, reeking with consonants instead of vowels.

The old friars named every place of importance within their demesnes and I am glad that these soft Castillian phrases have been retained by the Americans who succeeded to the lands and fruits thereof.

California was claimed by the early native Californians to extend northerly for many leagues beyond Sonoma but the location of the line was unknown, it never having been surveyed by their officials.

Sutter's Fort on the Sacramento River, thirty leagues northeast of San Francisco, was built, fortified, and held by Captain Sutter, a Swiss, who acknowledged none, or a very slight, allegiance to the Mexican authorities. He was not disturbed nor molested by the Californians. Indeed, there was never a platoon of soldiers or a mission within many miles of Sutter's establishment. It is to be recorded that the gold invaders stripped him of his wealth in cattle and lands, slaughtering the one for food and squatting on the other, until the broad and fertile valleys were involved in endless litigation. It would have fared ill with many of the Americans had there been no Sutter to welcome and nourish them from his abundant stores, when their weary caravans came to his hospitable portals, after months of travel over arid and barren plains, snow and ice-capped mountain ranges beset by Indians, disease and famine. It was just, it was Christian to give succor, but it was often repaid only by ingratitude. Before the advent of the Americans he was lord of thousands of fruitful acres; owner of myriads of fat cattle; sheep, mules and horses, with scores of Indian subjects,

who willingly did his behests. The Californians feared and respected his tact, power and sterling good judgment. He was superior to all, and could look confidently forward to establishing a little principality of his own. Through the irony of fate, gold was first exposed on his property by one of his employees who promptly imparted the potent intelligence to General Sutter. The latter eagerly gave the tidings to the world. In a very few years he was stripped of nearly all his possessions and died in Washington at the close of his chequered career, vainly beseeching Congress for some restitution of the princely fortune, filched from him by the Americans.

His fate was somewhat akin to the fates of Columbus and Balboa. They all won, and the victory was the cause of their later utter desolation.

The hordes that devoured Sutter's substance, were only a fragment of the mighty mass of men, rushing to the lure of gold and which reached its apogee in 1849. In that year the immigration exceeded any other twelve months preceding or subsequent thereto. The adventurers embraced several thousand Orientals, who, even at that early day, came across the wide ocean seeking fortune on a foreign shore. All landed at San Francisco and journeyed thence to the mines which were on the westerly slope of the Sierra Nevada Mountains

and foothills. The auriferous area was gradually increased by discoveries, but it was not until years later that the vast extent was known and explored.

Shasta and Los Angeles were both obscure. The latter was a dusty, dirty, miserable little hamlet, where existed a few Californians and Indians, living in one-room adobe huts. The wealth of fruit and wine that now makes it the paradise of the West was undreampt of in that era and none could divine its bright destiny. Between Los Angeles and San Diego lay forty leagues of barren mesa lands, over which wandered cattle and a few natives. No other place deserving a name except the missions could be located within a hundred miles of Los Angeles. The San Joaquin Valley was frequented only by game and cattle, roaming freely without restraint, each careless of the other's presence; and the oblong periphery of San Francisco Bay was void of inhabitants save in "the City," Benicia, and the missions.

Hence the relation between the town and the mines was close and binding for there was nothing else. No agriculture of any kind; nothing was raised. Everything was brought to the city by water and thence to the mines in one way or every way thinkable.

The glut of merchandise, imported in the scores of vessels, occasioned curious incidents at times. It is related that during the winter of '49 which was

very rainy, boxes of tobacco unopened were thrown into the crossings over some of the streets. Tobacco was so plentiful and unsalable that it was actually cheaper to make of the boxes a foot way than to construct a bridge of lumber. Mules are said to have been lost in the mud and an old caricature of that eventful period represents men walking or wading in thoroughfares up to their waists in mud while others are being pulled out by friends as if from a quicksand. The habitations were tents, and wooden houses with cloth linings, ranged close together on both sides of narrow streets. Therefore, when a fire occurred it did good business, as there were ample materials for an exhibition. Four fires occurred in nine months each taking a little of what was left by the preceding one, so that it was said after the last that the next conflagration would have to begin all over again, as of the earliest structures, there was not one left.

The people literally lived in the streets, there being very few dwellings, but plenty of hotels and boarding-houses, and shops with lofts where the owners slept. There were no theatres, but many drinking and gambling resorts which, brightly lighted and thronged with the world's tribute, were attractive and inviting. Orientals, the most impassive and consistent gamblers on the globe, chanced their ounces at the tables side by side with Occidentals, and lost or won with a fatalist's phlegm.

All night long, the restless mass came and went, drinking and gaming. The medium of exchange was gold dust carried in a deer skin bag, from which the varying quantities would be weighed on a pair of gold scales, with which every business establishment was provided.

But very few women or families had come into the land and the men were young, fine, healthy, hopeful, sunny beings—the salt of the earth. Every one carried a revolver attached, on the right side, to a leather belt, buckled around the waist, and the convenience of the weapon encouraged and incited affrays. Men cannot shoot if they leave their weapons at home. All this has been since repeated in other gold countries. Australia, South Africa, the Klondike; and the scenes just limned have subsequently had their prototypes more than once or twice; but the first experiences of this nomadic, restless, wandering, intense, and novel existence were in California. Besides, assaults and crimes were committed in San Francisco and in the interior, that did not occur, or, at least, occurred in a very much lesser degree, in the British possessions. British justice may not appear on the law books as superior to our own, but as it is regulated and applied by British judges, it protects life and punishes criminals. Here we protect criminals and punish life. If we had fewer lawyers and less law it would be a relief and an advancement.

The medley aggregation congregated in the town and country, embraced some eccentrics. It would be odd if so many nations could not supply different varieties of human nature to laugh or weep.

A man who had accumulated many pounds of gold enjoyed his wealth in a novel manner. He would spread sheets on the floor, pour the metal on them; walk upon it; roll in it; cast it around the apartment in handfuls and let the golden stream descend over his head and body like Jupiter upon Danae.

A New Yorker, just disembarked from a Panama steamer, carried in his hand a bunch of six pineapples. He was presently accosted by a man who said abruptly, pointing to the fruit: "Do you want to sell them?"

"Well, yes."

"How much?"

"Well," with doubt and hesitation for he was in a new world where the gold grew upon the trees. "Well, you may have them for ten dollars."

"Here's your money," said the buyer.

Directly afterwards other men, strolling along the water front, saw the luscious product of the tropics and one of them said to the new owner, "How many are there in the bunch?"

"Six."

"Want to sell 'em all?"

"No."

"Will you sell three?"

"Yes."

"How much?"

"Fifteen dollars."

"Here's your money," and he walked off leaving the first buyer with three fine pineapples and five dollars. The New Yorker glided away with that abstract expression of feature that belongs to new students of Euclid.

The costume, besides the universal revolver, comprised a red shirt, corduroy breeches, and top boots. The red shirt, sometimes blue, was especially in demand. To note a man walking in this apparel without coat or waistcoat and with his head surmounted by a black silk top hat would seem to us an amusing incongruity; still it was the prevailing style among the richer residents.

Amid such scenes and people, Broderick began his new life. He commenced with a resolute spirit and purpose few of those who preceded or followed could rival or excel. Before many days he conceived a clever and ingenious undertaking. Gold and silver coins, together with gold dust were the medium of exchange. There was no paper money or currency, nor was there a mint to transmute the metal morsels into coined money. The customs dues were large and the government would receive in payment only gold and silver coins.

The bulk of the money was brought in by the

SAN FRANCISCO, 1849

Americans and other immigrants, and as all sums were retained by the government, except the much smaller amounts disbursed as salaries to federal officers, the scarcity of gold coins became daily more acute.

Broderick formed a business relationship with an assayer and at once began the manufacture of five-and ten-dollar gold coins or "slugs" the intrinsic value of the metal contained in each coin relatively, being only four and eight dollars. These bore an inscription consisting simply of the date, location of coinage and the value in dollars.

The coins readily passed current in the community, for they were far more convenient and comfortable than parcels of gold dust, even if every one knew that the intrinsic was something less than the face value. Tradespeople received and paid them freely. Only the last holders could suffer. Governments stamp a piece of paper with some marks and signs and directly it becomes of value. Why should not private persons do the same in the absence of official prohibition? Broderick proceeded on this assumption and gained immense profits.

I have said already that he was not a commercial business man, and yet when I reflect, I must admit that the few enterprises in which he engaged were distinct successes.

He added to assaying, the manufacture of jew-

elry and himself used a sledge hammer in the stamping press. He retained his interest in the business while absent in the legislature.

Nothing important occurred during the latter part of his first session, while he was serving the unexpired term of his predecessor, which began in the autumn of 1849. New elections were held and Broderick was again returned to the state Senate representing the City of San Francisco.

In January, 1851, hardly a fortnight after the assembling, occurred the first of his California rencounters by which he was destined, alas, to be fated. The governor resigned and, under the law, the lieutenant governor succeeded to the station thus vacated. The president of the Senate was the lieutenant governor. His promotion to the higher place left his own vacant. Broderick was at once indicated as an aspirant. There was a joint meeting of the Senate and the Assembly.

A member of the Assembly named Moore delivered a short address stating that he was "opposed to the resignation of good men especially when they were to be succeeded in the office by persons about whose character I know nothing."

This was understood to apply to Broderick. The latter who would brook nothing, at once arose and made a caustic retort. The body adjourned in due course and later in the day the Senate met and elected Broderick lieutenant governor of Califor-

SACRAMENTO, 1849

nia. He was advancing. Only a little over a year in the country and already lieutenant governor. An hour later nothing but cool courage and calmness saved his ambitious soul from extinction. That evening Broderick accompanied by a friend passed Moore on a street. After passing, Broderick heard the words "scoundrel, rascal," used by Moore. Broderick turned on his heel and faced him. Moore produced a revolver and repeated the words. Broderick immediately struck at him but missed, and Moore was then seized and disarmed. He was taken into an apartment adjoining, but presently rushed out again to Broderick on the street. Some one had given Moore another or the same weapon, and the furious man, who possessed an unenviable reputation as a desperado, levelled his weapon within a yard of Broderick who stood immobile, saying, "I will shoot you, you scoundrel!" There was a cry of "he's going to fire!" and the crowd scattered. But Broderick, turning his steel-blue eyes sparkling with fire on his assailant cried: "You cowardly assassin, why don't you fire? You dare not fire, you coward!" The two men faced each other, one with the weapon of death trembling in his nervous hand and the other armed only with courage and conscience. Awed by his resolute antagonist, Moore hesitated. In another moment the pistol was wrested from his

grasp and Broderick was saved. His unflinching firmness in this affair together with the éclat of the office to which he had been just elevated, made him at once the most conspicous personage in the legislature and brought him directly to the knowledge of the miners.

The circumstance that his assailant was Southern while he was Northern added a graver tinge to the colors of feeling that the affray produced. It was the beginning of the feud that only ended with his death. Personal courage is the highest of all human attributes. As long as we love life and dread death, it shall be exalted above the clouds. Alexander killing the two Persian nobles at Granicus and Napoleon leading his grenadiers across the bridge at Lodi gained for themselves reputations excelled by the exploits of no others as generals or conquerors.

Broderick's career in the legislature as lieutenant governor seems to have been approved. Here is what one of the publications of that period said:

"Something is due to this distinguished citizen for the dignity, ability and impartiality with which he has discharged the various arduous duties imposed upon the presiding officer of the Senate. He has thus far administered the duties of that officer in a manner gratifying to every member of the Senate. I do not know that a single member of the opposition has at any time

expressed dissatisfaction at the manner in which Mr. Broderick has performed his duties. This is a rare and exceedingly gratifying fact. A presiding officer, however just and able, seldom escapes the animadversion of his political opponents.

"Mr. Broderick is a good parliamentarian; he is familiar with parliamentary rules; his decisions are promptly given, and an appeal from one of them has never yet been taken by any Senator. The facility and despatch with which the business of the Senate is transacted is a subject of general remark and congratulation.

"In this respect the Senate of California can vie with the Senates of any of the American States."

He was at ease in political assemblages. While never a fluent nor ready speaker he made a study in this position of the ordinary rules and customs governing conventions, so that on subsequent occasions his tactical knowledge of technical rules was invaluable to his cause. At this same legislature an effort was made to elect a successor to Frémont, whose term had expired. Frémont was a Southerner, but yet, in the short period during which he was senator he announced his positive abhorrence of slavery. That, of course, ranged against him many of his former friends and allies. One hundred and forty-two ballots were taken, and there being no election the legislature adjourned,

leaving the senatorship vacant. A year passed away and at its next assembly the legislature elected John B. Weller, who also was a Southerner, as Frémont's successor.

Again was Broderick's mettle tested, and again was his life in jeopardy. The occasion was so similar to the one of a year previous that it would be facile to conceive that they were more than a coincidence. Ex-Governor Smith, a man of distinction, and ex-governor of one of the Southern states, vilipended Broderick at a Democratic convention, in a violent address. The latter was not then present but, true to his nature, he replied at the next session of the state Senate, virulently reproaching the former official. Governor Smith's son promptly challenged, and Broderick promptly accepted. They met in Contra Costa County, being thus immune from arrest, and each opponent emptied his revolver at the other, standing twenty yards apart. Broderick, who does not seem to have been a good shot, missed altogether, but Smith with his sixth and last bullet struck the watch Broderick carried in the fob of his trousers. The latter's skin was slightly abraded by the impact, but the watch possibly saved his life.

Years later, after Broderick's death, this watch was found among his effects carefully safeguarded.

A few weeks after the duel, Broderick, from his place in the Senate said:

"I rise, Mr. President, to a question of privilege. On a former occasion I alluded from my place in the Senate to an honorable citizen by name, reflecting upon him in somewhat personal language. My remarks on that occasion were prompted by a feeling of vexation from remarks reported to have been made by that gentleman reflecting upon myself in the Democratic Convention. I have this day received from Governor Smith a letter which with the indulgence of the Senate I will read:

'Hon. D. C. Broderick,

'Sir: Having made remarks in the Democratic Convention, which yourself and others supposed reflected on you, and having just learned from a reliable source that you had no connection with the transaction then referred to, I now, deeming it my duty, take great pleasure in withdrawing anything then said of a disagreeable nature.

'Yours,

(Signed) 'Wm. Smith.'

"Regretting as I do the occasion which led me into remarks unpleasant to Governor Smith, I now take pleasure in promptly withdrawing the same."

I have quoted this letter and his observations textually, for I think that what they say is of more importance than what I say, and it illuminates the character of Broderick. In neither of these altercations was he the aggressor, and yet in neither does he seem entirely blameless.

His replies are not alone vigorous, but harsh and violent. They show him to have been stern and implacable; he gave "a word for a word, a blow for a blow." It is well that the ascerbities of political controversies are much more mellow now than sixty years ago. We have no duels nor do we essay to slay one another for a mere quip. But the words that today cause a smile, in those days caused a shot. Amid the stirring scenes of that epoch, no man dared blench, and if he was not killed he became popular, following Wolseley's aphorism to the young ensign.

Another episode followed. Stephen J. Field—who subsequently became a justice of the United States Supreme Court—was a member of the Assembly. He represented an interior district and had had an embittered controversy with the judge of the local court before whom he practiced.

Field introduced a resolution looking to the impeachment of his enemy and spoke thereon. He was answered by Moore, another member of the Assembly, who possessed an intimate friendship with Judge Turner, the object of Field's enmity. Every one carried weapons. The Assembly embraced thirty-six members and over two-thirds never appeared without displaying knives or pistols or both. It was the habit for a legislator when he entered the sacred portals of the House to take off his pistols and lay them in his desk before re-

suming his seat. This was so natural as to attract neither surprise nor observation. But when Moore arose to address the Assembly, he deliberately opened his desk, took out two revolvers, cocked them, and, closing the lid, deposited the pistols on the top. He then vilipended Field atrociously, stigmatising him very offensively and declaring more than once he was responsible for his utterances both there and elsewhere.

Field replied only to his arguments. His epithets required another kind of rhetoric. Hence when the body adjourned, Field applied successively to two brother members desiring them to carry his cartel to Moore. Both declined, alleging the constitutional inhibition against duelling and its implication of both principals and seconds.

The formidable reputation of Moore as a desperado, was recalled. Field was troubled and disconsolate. In the evening while meditating sombrely, he wandered into the Senate chamber where sat Broderick writing at his desk. Up to now they enjoyed but a desultory acquaintance with each other. Broderick looked up and exclaimed, "Why, judge, you don't look well. What is the matter?" Field said, "I don't feel well either, for I have not a friend in the world." Broderick continued, "What is it worries you?" Thereupon Field told him. When Broderick had heard all, he at once said, "My dear Field, I will be your friend in this

matter; sit down and write a note at once to Moore and I will deliver it." Field wrote, demanding a public retraction or a duel. Broderick directly called on Moore. The latter after perusing the missive stated that he expected to be a candidate for Congress and thus he could not accept the challenge. But he added that he would meet Field in the street any time and place, and be ready. Broderick asserted that a street brawl and shooting were not quite correct between gentlemen, but if Moore, after what he had said in the Assembly, declined a formal duel, there was no other course but to assent to his suggestion, and he added that Field would be found on the street at a stipulated time the next morning.

An hour later Moore met Broderick again and told him he would reply to Field's note in the morning and that the answer would be delivered by Mr. Baldwin, another assemblyman.

Broderick took Field to the outskirts of the town in the early dawn, handed him a navy revolver and pointing at a knot on a tree thirty yards distant said, "shoot!" Field struck the knot three times in five shots, which is by no means bad target practice. They returned and Broderick, meeting and accosting Baldwin, asked for Moore's reply. Baldwin said that his principal had made up his mind to do nothing farther in the matter. "Then," said Broderick, "as soon as the House meets, Judge

Field will arise in his seat and refer to the attack on him and to the language of Moore, wherein he stated that he held himself responsible for what he said; that respect for the dignity of the House had prevented him from replying to the attack at the time in the terms deserved; that he had since demanded satisfaction of Moore for his language; and that Moore had refused to respond, and will thereupon pronounce him a liar and a coward."

"Then," said Baldwin, "Judge Field will get shot in his seat."

"In that case," rejoined Broderick, "there will be others shot, too." He hastened to Field, related the conversation and asked if the latter would do as he told Baldwin. Field, who through the entire affair conducted himself most chivalrously, quickly assented.

The House met a few minutes later. Broderick sat near Field and around them were a number of Broderick's friends, fully armed and prepared.

Both Moore and Field simultaneously arose but the speaker recognized Moore, who at once read a full, ample and satisfactory apology, and that was the end. Did Field recall this memory when, nearly forty years thereafter, he beheld the slayer of Broderick fall dead at his feet! Tacitus observes, "men's minds revert from present to past, with infinite apprehension." It must be confessed

that deeds like Broderick's detailed in this incident forge chains whose links outlast life.

Field escaped a dangerous situation with both life and honor, and he never forgot either the occasion nor the man.

These occurrences made Broderick a natural and conscious leader in state politics and, although he tranquilly returned to his lucrative pursuit, he was never consigned to oblivion. His term as state senator expired; but when next he wore the toga, it was in the chamber of the United States Senate.

CHAPTER IV

PROGRESS

Meanwhile the years immediately following 1849 passed. The state gradually augmented its population to a quarter of a million for whom San Francisco was as Rome. San José, Stockton, Sacramento, and other interior towns came to their own slowly. When miners left the gold district they went directly to the city, for in the city they met friends and witnessed amusements. Every citizen was struggling to improve, but it was no slight task to construct all the muniments of a modern town, such as sanitary, fire, and water necessities, streets and sidewalks, from simple mud and sand, with no system of local taxation and no insurance.

It was not until 1852 that fire insurance companies established agencies. All the larger cities without exception suffered from the devastation of fire. San Francisco, especially, was burned and partially destroyed time after time.

The scanty water supply, contained in a few artificial reservoirs sunk at street corners, would be exhausted in an hour. During the summer, with the town fanned by the strong trade winds, any conflagration was inevitably destructive to the tents

and board shelters. Ships, deserted by their crews and anchored in the mud, which gradually mounted as the streets were built into the waters, had been transformed into stationary hotels; one even served as a prison. A number of these ships were destroyed, the fires burning sails, shrouds, masts and bulwarks down to the level of the soil in which they lay embedded. The keels made a good foundation for a superstructure of shops and lodging houses, which were rapidly occupied. Years later, in removing the upper works to build on the now valuable locations, keels of once splendid clippers that queened the waves, have been uncovered from the deep soil into which they had sunk. In one of them were found some baskets of champagne, the wine proving delicious to the gourmet, even after thirty-six years' submersion. Good wine may not need a bush but it does require a cover.

The fire engines of this period were manned by volunteers. Broderick, faithful to his New York instincts, had organized a company of which he was foreman and the nominal distinction remained with the name, though, of course, he relinquished his active association when higher aims intervened.

Natheless, the state flourished. Millions and millions of gold were annually extracted and the mining area continually enlarged. In the north half of the state, embracing Shasta and Yreka—regions that possessed only a name in the mission-

SHASTA CITY, 1855

ary days—auriferous soils were located. The miners flocked to the new placers, for whatever we may have, we are not content, and the unknown always fascinates. But it was a free, happy, merry life for those young men, clad in their red and blue shirts, corduroy trousers and top boots, hither and thither, sleeping beneath the stars and hoping to find a fortune under every stone—in every sylvan glen or in every rivulet that laced the Sierra Nevadas. They were forever searching for the unseen treasure that lay somewhere beneath the soaring summits; somewhere within those sunless recesses, walled by crags that leap to the clouds.

After the day's toil came the campfires, near the running waters and under the martial pines. The wild and jocund halloas filled the cañon and were lost surmounting the trees. The beauty of these wild woods where one communes with unviolated nature, refreshes the brain, fills the lungs, and lightens the spirit. The dreamless repose; the carol of the exulting birds; and the awakening slumber shaking from its wings the refreshing dew —such was the beatific existence in those halcyon days, with the delvers searching for the stone of Fortunatus.

The successful adventurers came to the urban places during the winter; the others built cabins and mined, the rains softening the soil and rendering it much easier to treat.

Presently the splendid resources of the country for agriculture were manifested and people began to cultivate the land. Most of the flour was imported from South America and cargoes and cargoes of cereals, coming from New York and foreign lands, were wafted to California shores.

During the year 1852, five hundred and sixty-eight vessels arrived from abroad in the port of San Francisco, including five hundred and twenty-four American ships. Fancy that proportion today! Only one in ten foreign-made or foreign-manned!

Gradually the farmer raised many articles of food cheaper and more appetizing than the imported kinds, and the old days of speculators buying all of a certain commodity in the market and then doubling the price passed away. Many found it more profitable and, at least, less uncertain than mining, and continued to prosper until gold became second in value to other products of the soil. But with this Arcadian similitude, living was cheap both at the mines and in the towns of the seaboard.

Every miner slung his six shooter at his waist on going out of his abode. In San Francisco in 1851 no one was safe from assaults, even on the streets or in his home. Hence every one carried deadly weapons—the revolver or the bowie knife.

The number of duels and personal encounters was prodigious. From the day they disembarked

the new arrivals found excitement. A month was a year; a week a month. Each day had its own history both for the town and for individuals. The pleasures were restless not tranquil and no one had leisure to be courteous. Perhaps one man calls another a liar and, instantly—revolvers, shooting, silence! The silenced may be an innocent bystander rather than the half-drunken reveler. The South Americans and Mexicans favored the bowie knife. It was discreet, and, handled with adroitness and dexterity, might be quicker than the pistol. Brawls occurred nightly. No one was arrested; no one warned, except, perhaps, by his enemy. The prison was a ship, and the police too few and inefficient. But the avenging Vigilance Committee eventually applied to these evils drastic and efficacious remedies.

The commerce of the city enlarged with increasing values during the passing years. In new formations one often finds some simple but necessary ingredient lacking, the least valuable and yet most wanting. After one of the usual normal conflagrations small tacks were in demand to nail cloth and muslin on wooden partitions. The supply was exhausted and they sold as gold, weight for weight —tacks on one side of the scales and gold on the other until nicely balanced. They were like Crusoe's axe, which was more valuable to him than all his Spanish doubloons.

Meanwhile, in the city, better hotels and theatres —buildings of brick and stone—were erected. Streets were excavated from the sand, mud and bogs, paved and sewered. The invisible lots under the water-front were sold on various occasions at auction and the purchasers piled, capped, and built thereon, thereby adding a new quarter. It was by purchasing at these public sales that Broderick became wealthy. His avocation of rivaling the alchemists had many competitors, including, at length, the Federal government which established an assay office in San Francisco.

Foreseeing this result he invested his capital and all he could borrow in water lots. He was a bold man, who was forever daring Chance.

Though he never "gambled," yet he speculated with his life and future, unlocked and open. These properties increased in value many fold and thereafter he experienced no real want of money for his political campaigns.

Not for a day, not for a moment had he forgotten his matured resolve to become senator from California. Like the coral insects he labored and built without cessation. Entirely dedicated to ambition, he did not relax, but placed stone after stone on the temple of his life.

He was omniscient in all public matters. Was it a committee to send succor to distressed immigrants—Broderick was chairman. Was it a ques-

tion of a new municipal building for the city—there he was in the familiar plaza, relic of Mexican days, where all gatherings were held, positive, brusque, intolerant, triumphant. He was a most energetic citizen and nothing could daunt his resolution.

Everybody respected him and some liked him. He became more dignified, austere and reserved. The man seemed to grow with the glow of his intense mentality.

It was no longer "How are you, Dave?" But "How are you, Mr. Broderick?" The press always wrote of him as the "Hon. D. C. Broderick." Even the roystering firemen, boyhood companions of New York days, who had followed him towards the setting sun, became quiet and considerate in his presence. To preserve and deserve this transition he became studious.

He had attended school but very little while a boy. His father died when he was fourteen and there were his mother and brother. Books were almost a puzzle to him. His brain was concrete, not abstract; practical, not didactic. His place was in the open, not in the study, or office. So he set himself now to make the new cogs that he felt essential to the wheel of his future. He read and studied night after night in his quiet room, like a school boy preparing for college. It is said that he engaged an apartment distant from his

usual domicile, where he spent long hours in absorbing knowledge, the knowledge that books impart. Certainly there was nothing in his conversation thereafter that betrayed a lack of cultivation.

He dressed carefully in the ordinary apparel of the merchant or statesman; black frock coat, vest and tie, with white shirt. Rather an innovation if not an improvement on the red shirt, high boots, corduroy trousers and belted six-shooter of '49. Broderick seldom carried a weapon, by day or night, even when his life was threatened, which was more the observance than the breach. Only cowards go armed. He was strong, active, broad shouldered, a good boxer, and could easily take care of himself with most men.

In San Francisco he became the dictator of the municipality. His political lessons and observations in New York were priceless. He introduced a modification of the same organization in San Francisco with which Tammany has controlled New York for lo! these many years.

It was briefly this. At a forthcoming election a number of offices were to be filled; those of sheriff, district attorney, alderman, and places in the legislature. Several of these positions were very lucrative, notably that of the sheriff, tax-collector and assessor. The incumbents received no specified salaries, but were entitled to all or a certain proportion of the fees. These fees occasionally

exceeded $50,000 per annum. Broderick would say to the most popular or the most desirable aspirant: "This office is worth $50,000 a year. Keep half and give me the other half, which I require to keep up our organization in the city and state. Without intelligent, systematic discipline neither you nor I can win, and our opponents will conquer, unless I have money enough to pay the men whom I may find necessary. If you agree to that arrangement I will have you nominated when the convention assembles and then we will all pull together until after the election." Possibly this candidate dissented, but then someone else consented, and as the town was hugely Democratic his selections were usually victorious. It may be asked, who gave him power and authority? By what right dared he assume this prerogative? What monarch constituted him viceroy and ordained that he should dictate to the citizens of San Francisco, the men who should rule the city, manage its finances, direct its police, choose its judges and control its schools? Broderick might have responded in the words of Napoleon when he said that "he found the crown of France in the gutter, picked it up and put it on his head."

When he came there was chaos and he created order. There was no party system in the town and he constructed one. It was the beginning and he was perforce the architect. He was also ship-

wright and captain. Yet he never interfered in local affairs nor undertook to influence the city officials on purely civic questions. It was said of him, from the first that he was a citizen of California, and not of any section. For the same methods that were so brilliantly successful—because methodically directed in the city—he introduced into the more populous counties. He was as supreme in Sacramento as in San Francisco and in every region of importance he maintained men whose care it was to proselytise Broderick adherents, and above all to select legislative candidates who would be favorable to his well known and openly avowed candidacy for the senate. These men were paid by Broderick a regular stipend, like employees in a merchandise establishment, when he could find for them no permanent appointment.

However, from 1854 he was the recipient from Governor Bigler of considerable patronage. Broderick, it was said, elected the governor, and the latter liquidated the indebtedness by accepting many of the former's recommendations to state positions.

This enabled him to provide for a number of retainers. In the city likewise he would stipulate with his party associates or rather subordinates for a certain proportion of their office employees. Thus from these double sources he supplied sustenance

for a number of capable politicians who became his devoted friends and partisans.

Surely he needed friends to counterpoise the bitter enemies who daily augmented. During this period of his career he displayed but little tact or discretion. He was intolerant, irritating and dogmatic. If one was not with him, why then one was against him. But later, when he found the steps he strove to ascend so steep and slippery, he sought for helping hands wherever proffered and asked and accepted assistance gratefully from whatever source. Broderick has never been accused of personal jobbery. His legislative reputation was unblemished. He might be quarrelsome, vindictive and harbor doubtful associates, but he never descended to vulgar venality. The tribute he collected from his official satellites was disbursed in promoting the welfare of the party. It was well understood that his personal contribution and expenses largely exceeded his tithes.

If there was a hall to be engaged, bands of music to be provided, platforms to be erected, banners to be bought, election quarters to be taken, it was to him that they went and he judged, selected, decided, and paid. He was omniscient and indefatigable. As one of the opposing periodicals said: "Broderick from '52 to '54 was the Democratic party. Since the organization of the party in California he has been its most active and effi-

cient member. His strong and decided character is known to every one. Vehement in his nature, unbending in his will, he has the intuitive political sagacity which fits him for the people."

He required very little personally. He neither drank, smoked nor gambled, nor was his name ever associated with lewd women. Society was in embryo. He had no vices save one, ambition—if it be a vice—to seek to govern and that, like the rod of Aaron, consumed all others.

The result of the election in 1853 was disappointing. His friend Bigler was elected governor, but the legislature was of a doubtful complexion.

That body assembled in Benicia in January, 1854. The term of Gwin, one of the senators, expired in March, 1855, and that of Weller, his colleague, in March, 1857, two years later. The legislature met in January of each year and it was the unviolated custom to elect the senator during the session immediately preceding the expiration of the incumbent's term. This was indeed the purport of the Constitution of the United States.

Gwin's six years expired in March, 1855, so to the legislature assembling in January, 1855, for they were annually chosen, would properly fall the function of selecting his successor. But Broderick from the depths of his restless and fertile brain evolved a bold, novel, and ingenious project.

The legislature of 1855 would have to be elected.

He did not know how the future would affect his aspirations. One can not see a day ahead; how, then, can one prophesy what fate may bring in the course of a year? He carefully canvassed the members of the '54 body, then in session, and decided that his chance for election to the Senate by them was at least equal to that of any other man.

The first movement was to persuade this legislature to elect the senator themselves and for that purpose a measure would have to be passed authorizing such action. So he launched his revolutionary project, and his partisans to a man sustained the proposition. This is not strange as we commence to appreciate his positive force, though it must have caused odd misgivings to some of his followers. But not one faltered. They closed ranks and moved on the common enemy. For every one who was not a Broderickite came together after the first spasm of astonishment and indignation. It was not then a question of party. It was Broderick and anti-Broderick.

Even the Whigs, who mustered a small number of votes, took sides and were by no means unanimous. Of course, Gwin and Weller, both of whom wished to retain their exalted and distinguished stations, united. They were absent in Washington, but they possessed adroit and capable friends at Benicia. And there were several other

gentlemen who had hopes and aspirations. Broderick was not the only statesman who strove to mount the capitol steps. All these combined, formed a phalanx, which, composed as it was of various and incongruous elements, yet valiantly breasted the Broderick array. In the Assembly the measure directing the legislature to elect a United States senator at the session passed, which was a victory for Broderick. It was different in the Senate.

In that smaller body the aligned forces were more equally matched. The Broderick senators were immovable; like Spartans they never changed. Nothing could alter their devotion, and to a man they never missed a session during a long two months while this bill was on the table. Not one was absent, and they were ever at the behest and command of the *chief* for any deed or purpose looking to success.

But with the opposition it was not so unanimous. They had several chiefs instead of one, and many intrigues of which the Broderick men tried to make capital.

It is related that one of the opposition senators was invited to ride behind two fine horses driven by a warm friend who was, however, a Broderick partisan. On a level, pleasant road his friend carelessly drove into a ditch and both were slightly injured. After his return our prudent senator reflected and the more he reflected the more pe-

culiar he thought the accident. There was to be no "pairing" nor explanations; if a man was not in his seat his vote was not counted, so a very slight mishap, one that might keep a member to his chamber for only a day, could be disastrous.

After cogitating, he arose like David and went forth to his friends who locked him in a room, where he was carefully guarded from intrusion or molestation until the hour of voting. The result was a tie, and the lieutenant governor cast his vote affirmatively, thus giving the measure a majority of one. A reconsideration was moved and, according to parliamentary usage, the vote would have to be confirmed at the next session.

The Santa Clara senator was named Grewell. He had been a clergyman nor did he deny the assertion. That he was vacillating and impressionable became, to state moderately in the following recital, quite clear. He was a Whig and from character and associations would be naturally anti-Broderick. He was, therefore, ranked with the allies and had hitherto supported them.

But the Broderick people were vigilant and sleepless. Every senator opposed was taken to the summit of the Mount and there proffered the earth and all contained therein, as a recruit for the standard. One of the most fervent of the Broderick contingent, the leading banker of San Francisco, had several private interviews with Grewell. No

matter how carefully concealed, very little was done on one side that was not known to the other. The allies reflected.

Like the boatman in Dumas' novel, who had conversed with "milady" and therefore was no longer safe, Grewell had met the banker and therefore required surveillance. He lived in San José, fifty miles away. A mounted rider was sent on relays of speedy steeds to that place. He arrived at midnight in a pitiless storm, delaying en route only to remount. He brought a letter to the self-appointed anti-Broderick guardian of Grewell. The latter was awakened, placed in a carriage and driven towards Sacramento. Half way, he met another agent who received the consignment from the San José cerberus and conveyed it safely to the headquarters of the allies. But the suasive eloquence of the banker was yet potent, for Grewell, when momentarily unobserved, escaped from his captors and rushed to the realms of the enemy, by whom he was comforted, cherished, and confined.

These events had occupied several days and they included the unavailing pursuit of the allied Grewell cavalcade by Broderick forces, who ascertained too late the cause of his sudden and mysterious disappearance from San José.

Grewell was kept like a precious jewel all that Sunday in the Broderick refuge for the repentant,

and on Monday when the session opened he appeared in his seat and voted affirmatively, thus causing a tie. But, as Paul Jones said, the fight was only begun. Both sides possessed champions of resource, artifice, and enterprise, and the allies well knew that if they could re-capture Grewell his uncertain temperament might again be oscillated. They sent out scouts who, after quiet but skillful researches over the length and breadth of the town, located the apartment wherein he was harbored and guarded by a faithful henchman of Broderick. But the faithful one was known to be quite susceptible to agreeable beverages. He was liberally and quite unsuspectingly supplied by a common friend, who nevertheless represented the allies.

There seems to have been rapid conversions in those delectable days. At the midnight hour, in stocking feet and pistol in hand, the latest friend stealthily opened the door of the chamber where Grewell and his guileless guardian slept. The latter still slumbered heavily, but Grewell was quietly awakened, told to arise and go forth. He did as bidden, and after a tender and interesting conference with the Whig leader, he entered the Senate at the next session and coolly reversed his vote of the previous day, ascribing his altered attitude to "telegraphic despatches" from his constituents.

Of such was the nature of California legislatures even five lustrums ago. The changing of Grewell's vote caused the failure of the measure and annihilated the darling ambition of Broderick for the time. But, though beaten, he had defied and fought all of whatever rank or party were allied against him, and was defeated only then by the relapse of a traitor. I think it was Dean Richmond who drank a toast to "the damned rascal who will stay bought." I do not mean to state that Grewell had been corrupted, but a man who so shamelessly and brazenly reversed his action over night subjects his conduct to the worst inferences.

Among those who stood forward as champions of Broderick were two men who afterward became celebrated in other places. One was Stephen J. Field, who died a Justice of the United States Supreme Court. The second was William Walker who, a year or two afterward, endeavored to subjugate Central American States, emulating Morgan, but with different success, for the one was ennobled and the other shot. California was then the home of the world's choice spirits. The courage and hardihood which transported them in safety from remote distances to this unknown land still wrought like an Homeric legend and built from nothing this unique factor of the American structure.

I cannot discover in this initial combat for the throne a division of forces on sectional or racial

lines. It was simply Broderick and anti-Broderick. The Northern and Southern alignment did not appear so strongly until some years later when Broderick was a senator and discussed the national issues that led to the Civil War.

Broderick's supporters comprised a number of the most ardent Southerners, and among his most envenomed opponents were several New Yorkers from his own state. The conflict was waged then and for three years more, until his ultimate success revolved around his individual personality. It must be remembered that he was not the only person that wished to be senator, and all these of course opposed his aspirations. It was one against all and all against one. He openly avowed his candidacy and frankly said that those who would not assist he would regard as enemies. Therefore it can easily be understood that what supporters he had would follow him forever. After this struggle there would be no traitors and there were none. Once a Broderick man, always a Broderick man—against the world. Yet his imperiousness, annoyed and irritated adherents, and his lack of mental equipoise lost associates. He was reproached for not taking counsel with his friends. He said: "I do, but I do not let them control. A leader must lead even if he commits errors. Men will follow the man who decides and acts while others are temporizing. My goal is the Senate and I will

arrive, if living. Why," he added, "to sit in the Senate of the United States as a senator for one day, I would consent to be roasted in a slow fire on the plaza." Such fierce resolve wins, as most men win who set their lives to the accomplishment of a certain design. It is energy, persistence, and consistency.

CHAPTER V

CONFLICT

The state legislature of 1854 ended its days in March of the same year. The state Democratic convention assembled in July, 1854, at Sacramento to nominate candidates for various offices, the election to be held in the autumn. The Broderick feud had become, by now, the web and warp and woof of the land. It entered into the arcanum of every county, every town, every miners' camp. From the base of Mount Shasta, whose summit, lifted high, eternally guarded its white cerement, to the sea-bound cypresses of Monterey, California, was divided. Several counties held Broderick and anti-Broderick local meetings and elected contesting delegations to the state convention. The ruling law did not permit delegations from districts which were divided to participate in the first deliberations of the convocation. Only those whose seats were not disputed possessed that privilege. Even San Francisco, where Broderick had hitherto reigned with a level hand, sent an opposing delegation, whose claims must be decided by the convention and pending which the members of neither could vote. However Broderick himself as chairman of

the state committee would preside at the first session and entertain preliminary motions.

Large halls were scarce and a church was chosen. The Broderick men were allowed ingress by a small side door prior to the appointed moment, so that they might occupy the best seats in front. The strategem availed little, however, for the opposing forces as soon as the broad doors leading into the sacred edifice were thrown apart, rushed in and passing rapidly down the chancel, forced their way bodily to the foot of the pulpit where stood Broderick. After the tumult had partially ceased he addressed the body, declaring the convention open and inviting proposals for temporary presiding officer. Two men arose, simultaneously, one of them suggesting a partisan and the other an opponent of Broderick for the position. Broderick recognized his adherent, put his motion, and declared Judge Edward McGowan chosen chairman. But the others were clamoring for recognition, which he declined, declaring his duty fulfilled. Thereupon, one of his enemies, from the chancel of the church, offered a resolution, and after a pandemonium of affirmatives, announced that Governor McDougall had been also duly elected chairman.

Thirty resolute men, armed with knives, derringers and revolvers, surrounded and escorted McDougall to the platform near the pulpit and

seated him in a chair, whilst McGowan confronted him from another. Distinguished among the foremost of the thirty by his tall, slender, straight-backed figure and steady poise stood David S. Terry, whose name later mingled in death with that of Broderick.

Pistols were uncovered, bowie-knives glittered; every man in the church was alert and intense. Only a miracle prevented a massacre. In that confined area each bullet would find a victim. A revolver in the hands of a nervous delegate was accidentally discharged and both factions only hesitated to learn who had shot, whilst a few prudent warriors instantly vaulted through stained-glass windows, bearing with them the image of God. Broderick himself displayed in this fearful hour rare tact, courage and moderation. A person noted more for his skill as a scribe than as a marksman and who many years after constituted himself Broderick's by-no-means profound or impartial biographer, excitedly drew a revolver and with trembling hand brandished it before Broderick's face. "Take care," said the latter, "take care; that might go off and you may hurt someone," and very deliberately (he seems never to hurry) he leaned forward, wrested the weapon from the palsied grasp and carefully laid it on the table.

Nevertheless, the angry, tenacious, tumultuous throng remained in sullen conclave for five hours

disdaining fruitless efforts to harmonize. Neither wing would tolerate speeches by their opponents.

Governor Bigler, a Broderick adherent, was hooted and forced from the pulpit platform, while the leading men of the allies were served no better. The two chairmen sat side by side quite helpless in the uproar and darkness, which now came on, for the pastor after vainly imploring them to vacate and not stain the house of God with hot, sinful blood, refused lamps and they were perforce content with two dip candles placed on the top of the pulpit. For one side to adjourn first was to confess defeat and grant, to the other, perhaps, nominal claims of legality. Finally, a compromise was effected and the two chairmen with locked arms descended from the platform, proceeded down the aisle and out into the world, followed by the whole convention in the same equitable manner.

The following day the Broderick battalion and their opponents met separately. Several fruitless and half-hearted attempts at compromise were offered but little disposition to unite was evinced. Like Orlando they were content to be better strangers. In this mood each body selected different candidates for the ensuing election and dissolved. The Whigs, chastened by defeat and encouraged by the venomous division in the ranks of their hereditary enemies, put forth an admirable ticket. This party though always in the minority in California

embraced a number of the most reputable and conservative citizens, many of whom, as members of the Republican party rose later to high distinction in the counsels of the state and nation. But the Democrats, fortified by the federal power, patronage and forty years of national administration yet divided, like Corsicans as they were, still conquered. The anti-Broderick candidates alone received a larger vote than the Whigs. The Broderick line was badly defeated, but with his usual careful and intelligent combinations Broderick, to whom the legislature was all, the rest nothing, had made such conditions and exchanges for county offices with both Whigs and any or all other adversaries, that his contingent in the legislature was more numerous than the average vote warranted.

During election day he was at the polls in one of the San Francisco districts. Disputes were frequent and the feud vigorous and vindictive between the contending Democrats. Colonel Balie Peyton confronted Broderick and a violent altercation ensued over the ballots. Peyton thrust his hand in his hip pocket and the handle of a pistol appeared. But Broderick, who had his right hand in his trousers' pocket, exclaimed coldly and deliberately: "Move, Colonel Peyton, and you are a dead man." Peyton then knew that Broderick had his hand on a derringer which carried an ounce bullet, and which was small enough to be fired from

his pocket without drawing—a most deadly weapon in a street brawl. Peyton stood motionless until Broderick said: "There is no need for us to kill each other or to have a personal difficulty. Let us take a boat on the bay or a walk under the trees and talk over this matter. If we cannot agree then I am ready to fight to the death or to any extent that you may elect." Peyton consented and a few minutes' conversation apart made them both life-long friends.

A friend complained to Broderick of turbulent characters who assisted him in elections, but Broderick replied: "You respectable people I cannot depend on. You won't go down and face the revolvers of those fellows and I have to take such material as I can get hold of. They stuff ballot-boxes and steal the tally lists and I have to keep these men to aid me."

On another occasion Broderick was walking one dark, rainy evening in a street when a person coming up behind and mistaking him for a friend, gave him a gentle push. The street was slippery, and the gentle push landed Broderick in no very gentle manner in the mud. He turned angrily and saw one of his most inveterate antagonists. "Oh!" said this startled personage, "I-I-thought it was Benham." "I wish to heaven it was," grunted Broderick. The humor of it appealed to both. They laughed, shook hands and ever after entertained

personal if not political amity. This little anecdote is trifling, but it serves to illustrate the milder degree of his character. As Plutarch says, "One's lighter and unstudied actions hold a clearer mirror to the world."

When the Solons met in January, 1855, it was very soon ascertained that no one person could command a majority of the legislature for United States senator. The strongest was Senator Gwin, whose term matured in the following March; but his forces were not so numerous as Broderick's at the previous session when the latter lost by a single vote.

While Broderick and Gwin were the principal contestants there were other men who would willingly wear the toga, and each possessed a certain number of adherents in the legislature.

These gentlemen at the previous session were all united with Gwin against Broderick. Now with the utmost sincerity and cynical frankness they united with Broderick against Gwin. There is nothing better than modern Republican politics to illustrate the independence, as well as the selfishness, of our school. After all, happiness consists in pleasing one's self; in pleasing one's self one may displease others; therefore, happiness is selfishness. And so if the recalcitrants were vilipended by the Gwin advocates, were they not justified? Winston Churchill relates in the life of his

father that Lord Randolph, after assisting the Irish party, in the exigencies of time found his friends were on the other side. So he said to Parnell: "I've done, as you know, all I could for you. Now, of course, I'll do all I can against you."

This legislative coalition, guided by the clear brain of Broderick, easily foiled all the efforts of the rest of the Democrats to enter a caucus, in which the decision of the majority would be binding. The Whigs, who were less numerous than the combined Democrats, were quite ready to do nothing towards the election, as the choice could not fall upon a Whig, and so the session vacuously ended. Gwin's seat in the Senate remained untenanted, and California possessed only Weller to give it voice in that august body. During this session of the California legislature and the one preceding, Gwin was absent in Washington. Congress sat coincidently with the California body, and it was not then considered American or patriotic for a senator to desert Congress while in session, to go home and re-elect himself. Distant as Washington was from Sacramento, Gwin's personal management of his campaign was made still more difficult. Neither telegraphs nor railways existed in the far West, and the shortest time by way of steamer to Panama, thence by rail sixty miles to Aspinwall, and thence by steamer to New York, was thirty days.

I do not find, in a close study of this period,

that any special antagonism existed between Gwin and Broderick. The latter was a candidate for the senatorship, resolute and immovable, confronting the world in his determination to win. All who did not aid his upward course were enemies, though he was too clever a statesman to refuse or decline tangible assistance from any source. He was always ready for a bargain, and in the political trades of the day he was seldom worsted. He was by far more successful with individuals than with the public at large. His positive, unyielding personality impressed his associates, but this brusqueness did not augment his popularity with the people.

Gwin had been a federal official in Mississippi and came, like others, seeking his fortune.

He arrived the same month as Broderick and with the same purpose; to return as United States senator from California. And, as a singular coincidence, before leaving Washington, he bade farewell to Stephen A. Douglas, saying: "I leave for California tomorrow. It will become a state, and I shall be back in a year bearing my credentials as United States senator." And he was. Broderick said to Sickles what Gwin repeated to Douglas a month later. The one from the North; the other from the South. Both fulfilled their prophecies and the career of each was equally weird and romantic.

Of stately presence, over six feet, with agreeable mien, Gwin possessed the courtly manners of a Southern gentleman. Those things counted for more at that time than today. Education, family, personal associations and surroundings had more weight and consideration. Possibly now it is more the man himself; not his ancestors nor friends nor religion, but himself. Sons of senators become employees in department stores, and railway conductors, sons of artisans and tradesmen become senators.

Gwin was chosen a San Francisco representative to the body that framed the constitution of the state at Monterey in October, 1849, and the ensuing legislature selected him and Frémont as the two senators. He seems to have been easily first and obtained the coveted distinction without envy or rivalry. By allotment his term expired in March, 1855, and the adjournment of the legislature without choosing his successor, left him officeless. During these several years, however, he had, with great diligence and industry, filled the more important federal offices in the state with his personal adherents from the South.

His colleague Weller, chosen to succeed Frémont in 1851, had not an equal influence or ascendency in Washington. He was a Northern man and the Southern element controlled the government. Gwin's personal acquaintance with the brilliant

galaxy of Southern senators ruling in Washington added to his power and prestige. But he did not exercise political prudence nor wise statesmanship. His appointees, to a man, were from one section. Postmasters, port collectors, naval officers, appraisers, federal attorneys and treasurers, mint employees, revenue officials, lighthouse keepers and inspectors were all from the happy Southland. The San Francisco Customs was called the "Virginia Poor-House." If he had been as great a senator as office philanthrophist his renown would be enduring. Senator Jones of Nevada used to say that "for one friend you make in appointments you create five enemies." So given enough appointments and one's enemies will surely overwhelm one.

The ideals and struggles that culminated in the Civil War were only latent in California in 1855, but still the complete predominance of the Southern element in office was irksome and irritating to many of the Northerners, and to none so much as to Broderick, the leading aggressive, enterprising Northerner.

Gwin had also fought his duel in recognition of sanctified precepts. It was in 1853, with an ex-member of Congress, McCorkle. The duellists fought, armed with rifles. They stood back to back forty yards from each other and, at the command of one of the seconds, wheeled and fired. After three exchanges, in which neither one was hit,

the combat ended. McCorkle was little and Gwin big, a fact that caused General Harry Worthington to exclaim, several years afterwards, when requested by his mentor, Broderick, to vote, as a member of the legislature, for McCorkle for some position: "I'll do nothing of the kind. A man who couldn't hit old Gwin at forty yards in three shots with a rifle isn't fit for any place within the gift of American freemen." Which illustrates the doubtful amenities that come with the years.

In July, 1855, the Democrats, under the imminent pressure of danger, came together. Through overtures made by Broderick, who could not win with his slender cohorts, they met, harmonized and nominated candidates for the autumn elections.

But a new contestant for political laurels appeared.

Two principal political organizations existed in the state, Democrats and Whigs, the former largely outnumbering the latter. In fact, the Whigs had never gained a victory. The Know-Nothing, or American Party organization, which was born in a day, proclaimed as its chief tenet and doctrine rescission of voting rights from foreigners. It demanded that no naturalized citizen should hold office, and it impliedly proscribed the Roman Catholic religion whose devotees were largely Irish.

It began in the New England states and appar-

ently found fruitful soil for its principles in California. The new party swallowed the Whigs at one mouthful, and made a second meal of many Democrats, for the membership must come from the other parties, it having no previous existence. Like a besom or a pestilence, or a fire or a sirocco, it swept the state in October, electing the entire ticket, including the governor and a majority of the legislature. All this, notwithstanding that their ticket was not advertised in the press or at public meetings or placarded throughout the country.

Absolutely no public announcement of the Know-Nothing candidates was made. Even on election day there were no men at the polling precincts distributing election ballots and advocating their choice, as was customary with the other parties.

The candidates and proceedings were unknown as the doings of the Druids. Whilst orators declaimed over the state, of the benefit to the commonwealth that would follow the adoption of the abstract and morbid doctrines the Know-Nothing platform demanded, yet not one avowed his candidacy. It was like asking an army to fight without commanders.

The able men who hitherto directed the state's destinies realized that an organization which proscribed a numerous section of American citizens

and yet dared not avow its leadership could only be ephemeral.

Like Rothschild with Napoleon, they gave it only a hundred days. Both friends and enemies of Broderick joined the exotic, and the struggle between them continued under the new banner. When the session of 1856 opened the Know-Nothings had a majority and might therefore elect a senator. But this majority included a number of former Democrats who still cherished secret devotion and allegiance to the old party that had governed the nation so wisely these many years. Few believed in the permanency of the new dogmas. This doubt was augmented by the exposure of large and numerous defalcations committed by several of the lately chosen state officials. It was written that "they began the day after induction."

The conflict of 1854 had its repetition. The struggle with Broderick then was to induce the Senate and Assembly to meet in joint convention. It was carried in the Assembly and only lost in the Senate by one vote, the one vote that prevented him from mounting the throne three years earlier than he did. Now, in 1856, Broderick's purpose was to prevent the Know-Nothing legislature from assembling in joint convention, and again a comfortable majority existed in the Assembly and a minute majority in the Senate.

His deadly Democratic senatorial opponents in-

structed all their legislative friends to blindly obey the behests of Broderick, and then quietly went about their business. They knew by repeated experience his pre-eminent ability to handle conventions of this character. And again I must add that Gwin was not his only rival and therefore ally.

Latham and McDougall were distinctly recognized as men of strength. Both had been members of the House of Representatives, both had served the state well and both brooked no one's patronage or suzerainty. After Broderick's death Latham became governor and senator, so he was made of winning material. In the end, Broderick, who never left Sacramento for one single day or night during the session, triumphed, and the legislature adjourned for the third time without choosing a successor to Gwin, whose seat still remained cold.

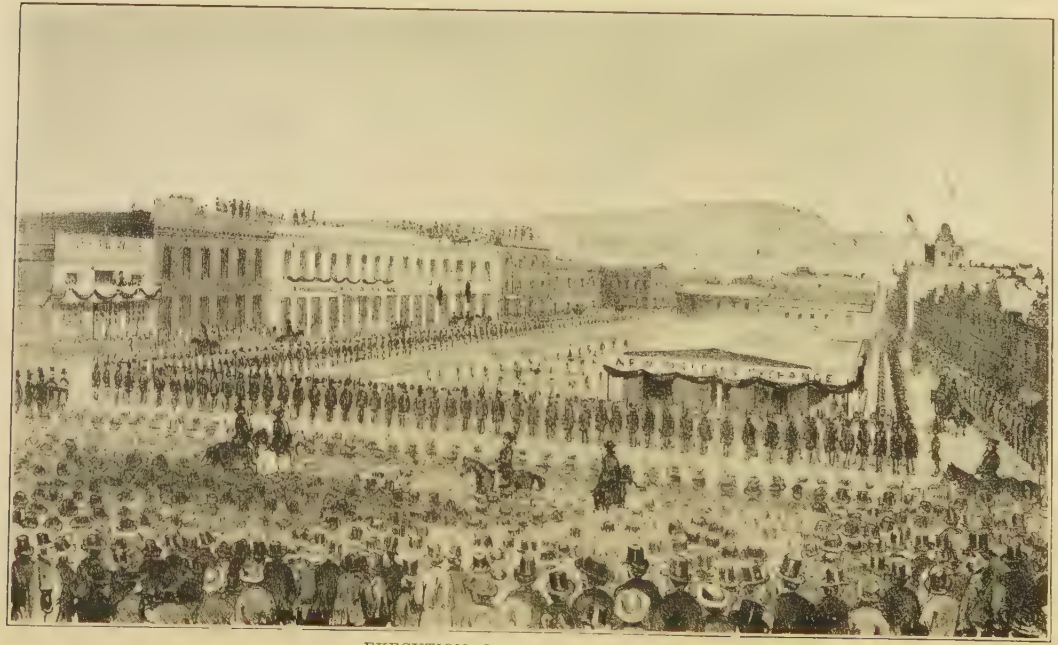
Judge David S. Terry who, it will be remembered, was a violent opponent of Broderick in the Democratic convention of the preceding year, renounced his early beliefs and joined the Know-Nothings. His reward, in the variegated wave that swept them on the sands of success, was election to the important and dignified position of Justice of the Supreme Court of the state of California. He assumed the supreme ermine on January 1, 1856, the term being for four years.

CHAPTER VI

THE COMMITTEE OF VIGILANCE

The law of nature, the primordial law which precedes civil law and civilization, is the law of self-preservation. A community or a nation attacked defends itself. Why not a man? And if it comes to killing, why not kill rather than be killed? When the constituted tribunals of a land fail or neglect to fulfill or accomplish the purpose for which they were created, society is resolved into its first elements and some new method must be adopted to preserve its existence.

Opinions may vary as to the special occasion, epoch or necessity when the ordinary processes of justice, when formal law and legal courts become incompetent and inoperative, and when a community is warranted in adopting novel and extraordinary measures for its safety and the safety of its units, but that that right exists, though dormant, is established by the love of life and the right to live. What civilized nation exists today that did not commence its history with violence and the overthrow of settled customs and ordinances? What one so wise and sedate as to be content to mark time? That comes with age. But



EXECUTION OF CASEY AND CORA

youth is turbulent, unruly and careless. And this abundant and abounding youth far away in distant California chafed under ancient fetters and harked back to the savage days, when men like animals, fought and slew for very love of blood.

A promiscuous habit of carrying weapons increased this tendency. When D'Artagnan and his compeers wore swords daily combats were the mode, and the Californian with revolver at the belt, was ever prepared with a quick eye and ready finger.

In the beginning there were no laws, and later those chosen as legal expounders were often venal and inefficient. In early mining camps every one except the gamblers labored more or less diligently in actually excavating for gold, and seldom was an occurrence so grave as to require a legal tribunal and advocates. Some elderly personage was usually selected as alcalde, a species of governing official, but his duties were not onerous. The gambler's toil began with eventide, but if not deemed an honest gamester, for it seems there were such, he was told by the alcalde to leave, and he went.

Those three first years in the gold regions, from '48 to '51, were Arcadian. The best, most capable and most intelligent young men of the world labored skilfully and patiently in the building of the state; but in San Francisco, the heart of this western world, the years brought changes for the

worse. The British had established a penal colony in Australia, to which they sent felons from home. In time the sentences of many convicts terminated and others were granted tickets of leave. It was much easier and shorter to sail from Botany Bay to San Francisco than to the old country, and then there was the lure of gold. These gentry descended on the town like vampires and found congenial associates in various members of the Latin race from Mexico and South America.

Robbery and assassination prospered. Arson was aristocratic. Several of the large fires that devastated the city during this epoch were ascribed to incendiarism. The courts—well, the courts and lawyers helped to protect, not to punish, vice. Besides, the prison was insecure and inadequate, and the police few and incapable. These misfortunes are perhaps unavoidable in new communities, where no one admits a master, but yet is so only with us Americans. It was not thus with the British, either in Australia or in the Klondike. We have the same laws, but with us the tribunals are superior to them; with the British the tribunals obey the laws and do not override them.

The citizens of San Francisco, foreseeing anarchy and pillage, determined on a very grave and serious innovation, which was, to supersede the imbecile courts, execute the criminal laws themselves, and practice terrible experiments in the punishment of

assassins. In June, 1851, a certain number of merchants, always the backbone of the town, banded together and evolved an organization which was called The Committee of Vigilance, the first, I believe, ever invoked in an Anglo-Saxon community to protect life and property whilst the law was perishing. This is the beginning of their declaration:

"Whereas, it has become apparent to the citizens of San Francisco that there is no security for life and property, either under the regulations of society, as it at present exists, or under the law, as now administered;

"Therefore, the citizens whose names are hereunto attached do unite themselves into an association for the maintenance of the peace and good order of society and the preservation of the lives and property of the citizens of San Francisco, and do bind themselves, each unto the other, to do and perform every lawful act for the maintenance of law and order and to sustain the laws when faithfully and properly administered; but we are determined that no burglar, incendiary or assassin shall escape punishment, either by the quibbles of the law, the insecurity of prisons, the carelessness or corruption of the police, or laxity of those who pretend to administer justice. And to secure the objects of this association we do hereby agree:

"That the name and style of the association shall be the Committee of Vigilance, for the pro-

tection of the lives and property of the citizens and residents of the City of San Francisco.''

These brave words somehow recall the Declaration of Independence. There were other provisions providing for rooms, organization, equipment and sustenance, inviting every respectable and approved citizen to become a member, and finally averring that the action of a majority of the committee should be binding upon all, and pledging unqualified support to the committee ''at the hazard of their lives and fortunes.'' Within a week a ''Sydney Cove'' was captured in the commission of a felony.

He was tried in the rooms of the committee by a jury and judge fashioned from their own membership. He was allowed an attorney, the right to testify and to call witnesses. The jury of sixty found him guilty, sentenced him to death, and he was hanged two hours later on the plaza, in the presence of the whole town.

A month afterward they hanged another ex-convict from Australia who had committed and confessed to many murders. He was executed at the foot of Market street on the stroke of twelve, the Vigilantes forming an armed escort of a thousand stern and just judges. In August two more malefactors, who had confessed, were suspended by the neck at the corner of Battery and Bush streets, in full view of thousands, whose

somber silence and fixed, resolute mien during the deliberate preparations for the execution appalled an English wanderer. He said they did not seem like men, but judges sent by Osiris from the nether world, so stern and implacable was their expression.

Thus four were put to death, but only for crimes committed after the committee's organization. They let the law deal, if it would, with the many untried criminals in the jails before their appearance, but they were unyielding in punishing, if they could not prevent the commission of crimes during their existence.

The municipal officials did nothing; they were helpless, and no one either pitied or trusted them, for justice never cleansed their venal hands.

In August, before the last hangings, the governor of the state issued a proclamation asking all good citizens to sustain public law and tranquillity, aid public officers in discharge of their duty and to discontinue any attempt to substitute the despotic control of a self-constituted association, unknown, and acting in defiance of the laws, in place of the regularly organized government of the country.

To this the Vigilantes replied: "We, the undersigned, do hereby aver that the present Governor McDougall asked to be introduced to the executive committee of the Committee of Vigilance, which was allowed and an hour fixed. The governor, upon being introduced, stated that he approved the acts

of the committee, and that much good had taken place. He hoped that they would go on and endeavor to act in concert with the authorities, and in case any judges were guilty of mal-administration to hang them and he would appoint others." There was a governor!

Hang the judges! But that millenium has not even yet arrived. His proclamation was necessary, as head of the state, but there was no question of his sympathies and convictions as a citizen of the commonwealth. Their work was done. Not a killing, save those for which they hanged the killers, had occurred in three months in the city.

Many rascals had fled the town, some leaving the state and some going into the interior. There was less arson, less robbery and gambling. People dared to walk the streets at night.

The officers awoke from their lethargy. Justice was no longer blind or leaden-heeled. Trade increased and new edifices multiplied.

The Vigilance Committee of 1851 ceased to act, but the association never formally dissolved. The membership roster was retained and the officers guarded their designations. Like the sleeping Swiss, they awaited the next call to arms, which came five years later. For, though the action of the Vigilantes rendered criminals less popular for a period, the old conditions began presently to recur.

During the first half of the decade serious doubts

as to the permanency of the gold deposits existed. In 1854 a marked diminution of the product occurred, and properties of all descriptions declined excessively in value. It was not until the next year, when new, rich and large placers in Shasta and Siskiyou counties were unearthed that the bird, Confidence, returned.

Miners, especially, were like Arabs, roving from gorge to gorge, seeking more lucrative deposits. Few claims lasted more than a year at best, and then the search for others continued. The alluvial soils containing gold were quickly exhausted. The era of quartz mines and mills had not yet commenced. Hence their relative permanency was unknown.

People wandered, therefore, from one camp to another, giving rise to a turbulent and fluctuating population. Possessed of no interest in the soil, and very often penniless, with a distant memory of moral restraint and little dread of the weak forces of authority, they were exposed to strong temptation. After the Thirty Years' War a large proportion of the disbanded soldiery became bandits. There was no other similar occupation.

To California in the early years came the cream of the world, but it was followed by the dregs of the world. Men whose careers were ended at home, whose names spelled vice and debauchery; who had run the race and were marked and known in the eastern states; in a word, those whose records were

not clean and whose hopes were ended, came to this alluring land on the western sea to forget and to live anew. The newcomer was never asked his name and address. He told what he pleased and it was accepted. Men have lived in partnership for months, digging the same mine, living in the same cabin, sleeping in the same cot and finally separated without one knowing either the true name or antecedents of the other. It was the way of the mines and pleasant, genial, faithful comradeship for the time. If they met again why well and good, if not, the parting had been agreeable.

There was another picture in the state gallery. The Saturday night and Sunday wassail. Gamblers had become an integral portion of every prosperous mining hamlet. With their shaven faces, white linen and expensive jewelry they stood out from the honest worker as a wolf among honest dogs. Games of many varieties with cards flourished, and the gamekeeper was an expert; otherwise he failed at his trade. All labor in the mines ceased from Saturday afternoon to Monday morning, and the gold that had been mined during the week was taken on Saturday to the little town. Armed with this universal weapon which he had gathered from a week's grinding, laborious toil in water and mud at the bottom of dangerous shafts the happy, careless, reckless miner would meet the professional and play. Drinking, cursing, gambling, kniving, shoot-

ing, all follow in normal sequence. Sometimes it is the gambler, more often the miner, for the former never drinks on duty and is as ready with the revolver as with the cards. Like the Egyptians who buried their dead in ground useless for any other purpose, the miners always devoted Sundays to inquests. If it was the gambler it was "justifiable self-defense." The coroner took charge of his effects, sold the card paraphernalia and retained the whole for fees and funeral expenses. If it was the miner the gambler was sometimes ordered out of town and sometimes he was hanged. It depended upon the mood of the miners and the standing of the dead man. What of the courts and lawyers? The judges and satellites would be in session at the county seat and the miners saved them exertion and the county expense. The gambler would repair to another camp, but killing is not a vocation to be commended, for one knows and remembers. He would be shunned, few would pay tribute to his talents, and he well knew that in an affray he would be given no chance unless he shot first.

Yet he must live and he would not work. So he took to robbing cabins, sluice-boxes and stage-coaches. The last was the boldest, most dangerous and chivalrous occupation of all and commanded everyone's admiration except that of the passengers. For one man to stop a four-horse coach

in the open, rob the dozen travelers—most of whom had revolvers in their belts, whilst the robber carried his revolver in his hand—equalled the exploits of England's most doughty highwaymen.

Throughout the gold fields the Vigilance Committee of San Francisco of 1851 had followers and exemplars. Lynch law prevailed, but the culprit was always tried patiently and equitably, and was hanged only when the twelve jurymen, under oath, as in the rounded legal chamber, so decided and agreed.

These men said: "After all, what difference exists between the first trial by jury and the lynch execution among a colony of men living far from civilization? Was the peace of a community of honest men to be disturbed by unpunished crime and bloodshed, when, from circumstances, the law of their country was unable to protect them?" These and similar questions formed the basis of the argument in defense of lynch law in the mountains. And it must be added that the fear as well as the reality of lynch law was beneficial. In several localities public indignation was confined to ordering unsavory characters to leave camp in twenty-four hours, and the command was rarely disobeyed. Driven with ignominy from the mountains and valleys a proportion of these wastrels drifted to the metropolis, wicked with vile and vicious thoughts,

engendered by their expulsion. They joined the city bands of ruffians and marauders, and little by little the old horrors of violence, arson, robberies and murders recommenced. Every morning there was "a man for breakfast."

The old delays, the old tribunals; perjury, quibbles and technical errors; corrupt and dense prosecutors; ignorance and venality leading the jury; misunderstood and misapplied laws; life itself, and freedom again to continue the course of rapine and murder were once more the privileges of the delighted criminal.

On November 18, 1855, occurred the Cora-Richardson affair. One must be careful of the dates in describing these tragedies, like those that marked the French Revolution. Napoleon always said that the eighteenth Brumaire was one of the most potential days in his career. Cora and Richardson met by hazard in a saloon. They were mutally presented and drank several times together, finally separating after a quarrel, in which neither was blameless, as is usual when Bacchus intervenes. The following day they again encountered one another in the same place; another dispute ensued; they went outside, scuffled, and Cora shot Richardson through the heart. The coroner's jury—impaneled the next day—in session over the dead body, in the presence of which they examined Cora and other witnesses, reported unanimously that Rich-

ardson "was deprived of his life by Cora, and from the facts produced, the jury believe that the said act was premeditated and that there was nothing to mitigate the same." Every juror signed this report.

General Richardson was a distinguished citizen of the state. Coming to California in the '49 hegira he had resided there continuously; always active in public affairs; was esteemed and regarded. When killed he was United States marshal, a promotion awarded only to the best.

Charles Cora, an Italian, was a professional gambler and consorted openly with the keeper of a bagnio. The two men were antithetical in career and character. They represented two diverse classes in the city, the man and the man-killer. The crime loomed large amid the conventional murders and the whole town was amazed and terrified.

The trial took place two months later. Because of the tense and continued excitement the usual interminable delays were abridged. Cora was surrounded by the most brilliant array of counsel that money could hire. Colonel E. D. Baker was one of them. This same Baker, who afterward pronounced the classic discourse over the slain Broderick, became senator from Oregon and died facing the foe while leading his men in a thrilling charge, full against the enemy, at Ball's Bluff! And yet

this same Baker defended Cora, the pander, the gambler, the deliberate murderer!

What will not lawyers do for money? There was a veiled, floating legend that Baker at first accepted a generous fee from the woman, and that, shortly afterward, recognizing the universal public attention concentrated on the case and the obloquy he might encounter, he endeavored to withdraw, but she refused to take back the money and he was compelled to continue. There was another saying prevalent at the same time that a San Francisco advocate stopped at nothing to save his criminal client except committing the same crime.

The jury disagreed after forty-one hours' confinement and was dismissed. These are the comments of a city journal on the day following:

"Men were placed upon that jury who should never have been there. They went upon it in order to defeat the ends of justice, in other words, to 'tie' the jury. This they effectually did. It is not pleasant for us to comment upon the depravity which has been brought to light in the trial. It is not very agreeable to state that the conviction is almost universal, that crime cannot be punished in San Francisco.

"But it is, nevertheless, a duty which we owe to the public community, as journalists, to put the people upon their guard. It is well for every man to understand that life here is to be protected at

the muzzle of the pistol. The best man in San Francisco may be shot down tomorrow by some ruffian who does not like what he has said or done; yet the chances are an hundred to one that that ruffian will escape punishment. He may go through the farce of a trial, but nothing more. Now, what is to be the end of this? Crime will become so frequent that it cannot be longer endured. Then will come lynch law, then men even suspected of crime will be hung; for people cannot long live as things are now running. No man's life is safe, in our opinion, for a single moment."

This publication, four months preceding the birth of the 1856 Vigilance Committee, evidences clearly the trend of public opinion. It was not sudden nor spasmodic. It was coming, deadly and terrible, if crime continued. What people thought in the East may be perused in this excerpt from a New York periodical of January, 1856:

"Assassinations, murders and hangings constitute the leading materials of the budget of news in San Francisco. First, we are told that General W. H. Richardson, United States marshal for the Northern District of California, was basely assassinated in the streets of San Francisco on the evening of November 19 by a desperado named Charles Cora. Then, that Hon. Isaac B. Wall, collector of the port of Monterey, and T. S. Williamson, an officer of the county of Monterey, were murdered

on the 10th inst. Then we have duels and robbery cases innumerable. The papers devote large space to the particulars of these horrors, showing a state of things, especially in San Francisco, which carries one back to the days of vigilance. The provocation to hang the murderer of General Richardson was very strong, but the good sense of the better portion of the people overcame the passion of the moment and induced them to await the proper judicial tribunal. It is surprising to see in what a matter-of-fact, business-like way the California editors post the books of their criminal calendar. Here, for instance, is a recapitulation of the statistics of killings and hangings from the 1st of January last to date:

	1st Quar.	2nd Quar.	3rd Quar.	Oct.	Total
Total killed.....	120	99	208	62	489
Hung by sheriff..	2		2	2	6
Hung by mob....	8	14	18	6	46

"Horrible! Horrible! Total killed in only ten months, 489; hung 52. Kentucky must give up the name of the 'dark and bloody ground'—which is simply a traditional Indian nomenclature—while here is ghastly reality in California."

The New York scribe might have added that for the 489 murdered men the sacred law had only punished six of the 489 assassins!

It is true the miners were industrious. They did

fairly well, hanging forty-six wretches; but they could not do everything.

And so the scroll remained. After the mistrial of Cora he was committed to prison. It was thought best by those who aided him to let several months expire before agitating for a second trial. They counted on the proverbial forgetfulness by the many of that which concerns the many. Oblivion companions time. Nevertheless, the fashionableness of crime had somewhat abated. The slaughter of Richardson had evoked such openly expressed exclamations of fierce resentment that scoundrels were cowed. But this resentment was restrained by the deep feeling of regard and respect for the laws and welfare of the city, by men who hesitated to usurp the functions of justice and who quietly waited.

James King of William, a Virginian, was one of the early pioneers, and joined the Vigilantes of 1851, already portrayed. Like others who came to seek fortune, he had engaged in different occupations, including banking.

The bank of which he was manager failed and he was directly censured. But that was a misfortune and not a crime. Possessed of some literary acumen and a disdain and contempt for those who disturbed the city's reputation and tranquillity, he thought that an honest newspaper might exist.

With slender resources, obtained from friends,

FORT VIGILANCE

he established the *Evening Bulletin,* which still flourishes, without change of appellation. His sharp, sarcastic paragraphs, clarity of statement, and the vigor and vehemence with which he daily assailed public wrongs and their perpetrators made both editor and journal marked and distinct above others. Included in these others was a weekly paper owned and published by James P. Casey. These two men represented the two moral and political extremes.

On a Sunday Casey's journal printed an article from an anonymous contributor. The article related that King's brother had vainly sought a federal office, the one, in fact, held by General Richardson at his death, and that he had been ignominiously repulsed. Meanwhile, King was daily attacking the federal brigade and asserting their active or silent co-operation with the blackguards of the city.

King's brother went to Casey's office, denied the statement and demanded the author's name. Casey refused, truculently adding that he held himself responsible. A day or two later Casey heard that James King had ascertained some unpleasant details of his career and contemplated publishing them. He repaired to the *Bulletin* office and remonstrated with King, but the latter give him slight recognition. The same evening the *Bulletin* contained a statement, from which the annexed is an extract.

"The fact that Casey has been an inmate of Sing Sing prison in New York is no offense against the laws in this state; nor is the fact of his having stuffed himself through the ballot-box, as elected to the Board of Supervisors from a district where it is said he was not even a candidate, any justification why Mr. Bagley should shoot Casey; however richly the latter may deserve having his neck stretched for such fraud on the people." Strong provocation surely; but hardly a killing matter, when it was true! The evil that men do lives with them as well as after them.

Casey after reading the paper lurked in the vicinity of King's office until the latter departed for home. Casey suddenly confronted King on the street near by and shot him. The latter sank to the ground mortally wounded.

Casey was arrested and incarcerated. It was five in the afternoon, when the thoroughfares were crowded, and the appalling intelligence was directly known.

The similarity both in characters and circumstances raised the cries: "Another Cora and Richardson affair," "More hung juries and less hung men," "He will get clear if the officers keep him."

With one brain and action, as if in telepathic concert, maddened men ran to the city prison; but the heavy outside iron doors leading to the halls were

closed and locked, and the inner station was guarded and barricaded. King was too severely hurt to be transferred to his residence. He was tenderly raised, carefully placed on a cot, hurried to the nearest office, and in thirty minutes five of the best physicians in town were at the bedside, fighting death. Around the building where he rested thronged a sorrowing multitude whose sympathy was soon changed to violent frenzy when the medical men stated the gravity of the wound, while cries of: "Let us organize and hang him! hang all the gamblers!" terrified the air. Darkness came and the authorities, fearing a night attack on the city prison, planned to remove Casey to the stronger county jail on Broadway. A carriage was ostentatiously brought to the main entrance, and while the populace watched and waited, he was quietly removed by a side door, pushed into a conveyance, a pistol thrust into either hand and, drawn by speedy and strong horses, dashing up the steep incline, the prisoner was made safe in his new cell before the manœuvre could be detected and thwarted. Ten thousand desperate men surged and seethed all night around the solid prison walls like storm-tossed waves dashing on an island lighthouse. The policemen, aided by two city troops hastily summoned from their quarters, mustered a force of three hundred, who kept guard in the jail and patrolled the walls. A woman hard by was asked

to provide food for them, but she hotly refused and not one of the neighboring residents would furnish shelter or coffee to the defenders of "law and order."

It was a fearful night and there might have been a massacre had the fates so willed. Every building in the vicinity was alive with humanity, and the thrilling and exciting scenes exceeded any occurrence during the old Vigilance Committee era. The mayor endeavored to address the people from the jail steps, saying: "Let the law have its course and justice will be done." But they replied: "Look at the case of poor Richardson. How is it in his case? Where is Cora now? Down on such justice. Let us hang him!" Unable to secure a hearing he retired. Cora must have heard these fearful demands from his cell near by, which he had restlessly trodden for six months. The rumor that King's condition was somewhat alleviated and that the doctors were more hopeful, tranquillized the impatient mass and the night closed in quiet, waiting for the day.

CHAPTER VII

THE COMMITTEE OF VIGILANCE—CONTINUED

The next morning a call appeared in the press for a meeting of citizens at 105½ Sacramento street, in the quarters lately occupied by the Native American party. During the day a thousand men signed the roster of the committee and sanctioned the adoption of a constitution. This document was a repetition of the one under which the Vigilantes of five years earlier acted.

It embraced several additional provisions to provide for the present emergencies. For example: "that the action of this body shall be entirely and vigorously free from all consideration of or participation in the merits or demerits, or opinions, or acts of any and all sects, political parties or sectional divisions in this community; and every class of orderly citizens, of whatever sect, party or nativity, may become members of this body. No discussion of political, sectional or sectarian subjects shall be allowed in the rooms of the association. That no person accused before this body shall be punished until after fair and impartial trial and conviction. No vote inflicting the death penalty shall be binding

unless passed by two thirds of those present and entitled to vote."

This thousand embraced the principal merchants and professional men, those best known for character, influence and standing.

The two city troops that had protected the jail the night previous, promptly sent their resignations to the governor, stacked their arms in the armory, disbanded, and then the major portion proceeded to the Vigilante headquarters and appended their signatures to the membership list. Mass meetings assembled at Sacramento, Nevada, Placerville, Folsom and Marysville denouncing the shooting of King, approving the organization and purposes of the committee and offering armed assistance if requested. The following from the Marysville meeting indicates the universal expression:

"That we recognize in James King, editor of the *Bulletin,* the sincere and earnest friend of the poor; the bold and fearless exposer of vice, crime and corruption; the independent and uncompromising opponent of official villians and swindlers, and the best and most faithful exponent our State has afforded of that sentiment which prevails everywhere among the masses of the people."

Thousands of miners ceased their labors, belted their revolvers, shouldered their rifles and hastened to the city. There was an immediate cessation of business and traffic; the dense masses in the streets

awaiting with intense interest the bulletins of the doctors. Mr. King lingered several days, and meanwhile the swelling numbers of the committee; the purchase by their representatives of every weapon in the gun shops; the seizure of those in the armories, including two pieces of ordnance with abundant ammunition, and the constant drilling in companies of a hundred men each day and night, evidenced the resolute firmness, admirable planning and cool foresight of the leaders. Governor Johnson came down from Sacramento and held a conference with the executive committee. By his instructions the sheriff who kept the prison allowed a small body of Vigilantes to camp within the walls. The committee was resolved that Casey should not be spirited away. The sheriff, through his deputies, served a document on citizens he encountered in the streets commanding them to appear at the jail, prepared to serve under his authority.

One hundred were summoned; but fifty responded, of whom the moiety were legal advocates. King was of strong and buoyant physique; he fought hard. On Saturday night his condition was worse. The Vigilantes had been directed to assemble on the ringing of the Monumental Fire Engine Company's bell. The fateful bell rang out slowly and distinctly at nine o'clock on Sunday morning. It seemed not unexpected. People were waiting,

ready and strained to the work. Moving throngs hurried to the Sacramento street quarters, where they were assigned arms. Already they knew the military duties. At midday an army of twenty-six hundred men, cavalry, infantry and artillery, armed and equipped in strict martial array, proceeded in regular marching order to the prison which they completely surrounded.

Placing two cannon in front of the gates, these were deliberately loaded with ball and powder in full view of the inmates. Then Mr. W. T. Coleman, the president of the organization, with three other members, advanced to the doors, requested audience of the sheriff and demanded of him the custody of Cora and Casey. As the imposing force wound up the hill to the prison portals the sheriff went to the cell of Casey and said: "There are two thousand armed men coming for you and I have not thirty men about the jail." Casey replied: "Then do not peril your life and that of the officers in defending me; I will go with them."

When Coleman and his associates came to his cell, Casey asked for a fair trial and protection in leaving. He was apprehensive of being hanged forthwith. Both were assured and Casey came out, was placed in a carriage and taken to rooms prepared for him at headquarters. Cora was placed in a second carriage and joined him an hour later. They were guarded and escorted by the

whole force with all San Francisco as silent spectators; for it is said there was no disturbance of any kind.

The entire proceedings were conducted with the dignity and decorum of a funeral. When men contemplate death, levity disappears. Three hundred Vigilantes remained on guard day and night. The rest of the army marched quietly down to the bay and discharged their weapons, in order to prevent accidents and be again prepared for the ringing of the bell.

King died on Tuesday, six days after he was shot. An inquest and trial were had and the verdict rendered read: "That the deceased came to his death by a pistol ball fired by James S. Casey and that the act was premediated and unjustifiable." Two days later, the 22nd of May, 1856, King was interred.

As the funeral cortege of ten thousand silent mourners pressed down Montgomery street, they were startled on gazing to the left to see, a hundred yards distant, the suspended, swaying bodies of Cora and Casey. The vast multitude of soldiers, spectators and mourners, encompassing the sable catafalque, and the lithe figures overhead, quivering in the mellow spring sunshine, constituted such a sombre spectacle as has been rarely witnessed. Before being hanged, Casey addressed a few sentences to the listeners; Cora said nothing. They

both died like men, bravely. The two thousand armed Vigilantes who had witnessed the execution in stoical silence, were then drawn up in line, double file, and reviewed by the superior officers. Thereafter they countermarched to headquarters and, entering through one door, stacked arms and filed out through the opposite exit to mingle again with their fellow citizens.

The power they had assumed for a definite purpose was finished, and they resumed their various vocations after its accomplishment. They believed what was done was best done, for the will of the good people should be the law of the land. San Francisco, that had been aghast and stupefied since the shooting of King, lived once more. In its arteries flowed again the ripe blood of commerce; people were aroused from their lethargy, and life's game continued, as when sand is thrown over the red stains, the dead gladiator dragged from the Roman arena and the combat renewed.

But the committee retained its existence, activity and organization—inexorable, indefatigable, implacable. It declared itself "a regulating court, determined to enforce measures to prevent the farther perpetration of crime and corruption in the community. We allow persons of all nations and tongues of good moral character to become members. These are fundamental principles of the body and will be rigidly adhered to. All creeds,

religious and political opinions must be thrown aside. We enter the great battle of virtue against vice, of right against wrong, of liberty against oppression, and we are determined at all hazards to crush out the monster vice of election frauds as one of the greatest causes of our troubles."

I quote thus copiously from their proceedings and proclamations for it is my opinion that men who combined for such grave purpose and did such grave deeds without legal warranty can give better reasons for their actions than others. No one has ever been able to state our grievances against Britain more lucidly than they are stated in the Declaration of Independence.

The committee arrested and imprisoned many persons suspected or known to be guilty of crimes. One of these, overcome by terror, committed suicide. They were all tried and, if found guilty, various penalties were imposed, the most serious being banishment from California. In such cases the culprits were placed on sea-going vessels for Australia, Europe or the Orient and warned not to return under penalty of death.

The mayor and officials of the city made no effort to thwart the energetic actions of the Vigilantes. The governor at the committee's initiative did not oppose them. On the contrary, after conferring with the leaders he instructed the sheriff to receive a number of Vigilantes in the prison, for the

purpose of overseeing Casey and Cora, and preventing attempts at escape. After their execution he became more hostile to the committee, and issued orders to W. T. Sherman authorizing him to raise troops, incorporate with them the enrolled militia and stand ready for the enforcement of the law.

The governor's proceedings were exactly parallel with those of his predecessor five years previous, and one might presume that he was simply following an established precedent. W. T. Sherman had been a West Point graduate, but at this period was a member of a San Francisco banking house. Because of his military education the governor very properly proclaimed Sherman major-general of the California National Guard. Sherman issued orders directing volunteer captains to fill their companies to the highest standard, and for all other citizens not legally exempt to enroll, form companies of fifty, elect a captain, and report to him for duty. The number of those, including new recruits, who reported at his quarters was seventy-five, to oppose whom the Vigilantes had five thousand men, with a regular battery of field pieces. Two days after the governor's proclamation was issued, the committee tried, found guilty and deported on an outgoing vessel a half dozen vicious and desperate characters.

There were some good men in the city who had not as yet become affiliated with the committee.

Several of these gentlemen repaired to Benicia and interviewed the governor; Sherman, Terry, Douglas, the secretary of state, and several other state officials attending. They asserted emphatically that they were not Vigilantes nor cognizant of the Vigilantes' projects; but if the governor undertook to suppress the society by force it would cause a crisis and bloodshed.

The vacillating and temporizing executive hesitated, and Sherman in disgust resigned his commission after five days tenancy thereof. When he died, years later, he was general of all the armies of the United States.

The very day after his resignation one of the city companies that had been summoned by Sherman met and resolved to disband; but at once reorganized under the name of the Independent National Guard, subject to such rules in sustaining the cardinal interests of the community as they thought best, but distinctly disavowing all connection with state authorities.

Marshal North, who had been very alert in persistent antagonism to the committee, resigned as city marshal. The press of San Francisco numbered several daily papers. Of these the *Herald* was perhaps the best written, most influential and successful. Existing since 1849, it had approved the Vigilantes of 1851. On this occasion it at first exhibited vacillation and presently denounced

the Vigilantes in no uncertain terms. The vengeance of the Vigilantes was prompt and incisive. An immense number of copies were heaped together on Front Street and burned by merchants and employees. The tradespeople then simply withdrew their subscriptions and advertisements. The next issue of the *Herald* following the denunciation shrunk from forty to twenty-four columns; in a week to sixteen, and then it became moribund. Encouraged by these marks of public support, the committee issued the following clear and vigorous statement to the people of California, explaining and justifying their actions:

"Embodied in the principles of republican government are the truths that the majority shall rule, and when corrupt officials who have fraudulently seized the reins of authority, designedly thwart the execution of the laws of punishment upon the notoriously guilty, then the power they usurped reverts back to the people from whom it was wrested. Realizing these truths, and confident that they were carrying out the will of the vast majority of the citizens of this country, the Committee of Vigilance, under a solemn sense of responsibility that rested upon them, have calmly and dispassionately weighed the evidence before them and decreed the death of some who, by their crimes and villianies, had stained our fair land.

"Our single, heartfelt aim is the public good;

the purging from our community of those abandoned characters whose actions have been evil continually and have finally forced upon us the efforts we are now making. Beyond the duties incident to this we do not desire to interfere with the details of government. Our labors have been arduous, our deliberations have been cautious, our determination firm, our counsels prudent, our motives pure, and when the community shall be freed from the evils it has so long endured, when we have insured to our citizens an honest and vigorous protection of their rights, then this Committee of Vigilance will find great pleasure in resigning their power into the hands of the people from whom it was received."

But while thus explaining their motives the committee did not neglect other and different precautions. It selected a square by the water front, bounded by four streets. A few small buildings occupied part of this square and within were constructed cells, guard-houses and trial courts.

The principal front was protected by a sandbag breastwork, ten feet high and six feet wide, constructed twenty feet from a wall, fronting the square. A narrow passage through this fortification admitted members to the interior, which was diligently and discreetly guarded night and day. Upon the strengthened roof were located a large alarm bell and several field pieces. The executive

chamber was a spacious room decorated with American flags. It was denominated Fort Vigilance. Every Vigilante knew his number and company and was obligated whenever the dread bell should ring out the alarum, at whatever hour it might be, to go at once to the fort, shoulder his rifle, join his company and stand for orders.

For over two months following the execution of Cora and Casey not a single man was murdered in the streets or houses of San Francisco. Not a single one! A record hitherto unknown in the annals of the town. The fear of Vigilante vengeance was effective protection. The cry of a "man for breakfast" was forgotten and people breathed.

Then came the reopening—a quarrel, verbal altercation and ruthless shooting on the street in open day. The assassin had shot a man on the street in a similar manner three years before and the complacent jury acquitted him. But things were different now. He was promptly seized, jailed and tried in the executive chamber. He was permitted attorneys, witnesses and every legitimate method of disproving the grave crime. After three days' patient hearing the committee of four hundred sworn and attentive members adjudged him guilty and pronounced the penalty—death.

Another prisoner within the fortress walls had killed two men a year or two previous and committed other felonies which he had boastingly and

insolently avowed. Divided and bought juries had hitherto saved him, but it was different now. He also was tried, convicted, condemned and, on the 29th of July, the two were hanged together like Cora and Casey in the presence of a Viligance military force augmented to five thousand men. A looker-on said that "a more impressive, dramatic or tragic scene was seldom seen." By now the Vigilantes had procured bayonets, which were attached to their muskets, and constant drilling gave them a martial and resolute array. The gray-haired and the black-haired stood together; arresting the laws; hanging men without cowl, candle or judge, yet no execution was ever more grave or solemn. The silence of the tomb pervaded the brilliant July day, and fifty thousand spectators assisted at the event. If death is to be the penalty for death, it would seem that the more public the punishment the more deterrent the effect. What we do not see we may not fear. To view a hanging would deter the average spectator I should think from participation as principal.

Judge Edward McGowan was an intimate associate of Casey. It was surmised that he was cognizant and encouraged Casey in his crime, as he was seen in the latter's company on the street a few minutes before King was shot. It was even asserted that the weapon used by Casey belonged to Mc-

Gowan, and he was at once indicted by the Grand Jury as an accessory.

Therefore the Vigilantes sought him after the assassination when these events were known, with an ardor that was compelling. McGowan was secreted by friends in the town and a few weeks later made a thrilling escape from the guarded city. He rode swiftly five hundred miles to Santa Barbara, a most romantic journey, replete with interesting adventures. While at Santa Barbara his identity was discovered, and the committee sent several Vigilantes to arrest and bring him back, in which they were cordially assisted by the Santa Barbara authorities. All over the interior sympathy and support were devoted to the Committee of Safety. Armed military organizations in Sacramento, Marysville and Placer offered to march to San Francisco and to unite with the Vigilantes if demanded. McGowan fled the beautiful hamlet by the sea, whence he escaped by a desperate chance and remained ensconced alone, hidden in the mountains, coming down by night and digging potatoes in the fields, which he devoured raw.

For weeks he thus existed and, finally, months later, when the fires had died out, the committee disbanded and men were trying to forget, if not forgive, he returned again on horseback, resting at several of the mouldering old missions en route. He describes his experiences in a fascinating vol-

DAVID S. TERRY

ume, the glamour of which is scarce exceeded by the most brilliant romances of Dumas or Scott.

He was subsequently tried and acquitted on the indictment and existed to a ripe age, leaving descendants who are of the most valued and respected in the land.

The office-holders representing "Law and Order," were naturally violently opposed to the committee, inasmuch as it had divested them of any real authority in both city and state. They met frequently in conference, but were unable to formulate any successful plan of antagonism. Power, influence, sympathy, righteousness and numbers joined with the committee. As an instance, several cases of rifles had been secretly shipped on a vessel sailing from Benicia. These weapons were consigned to one of the few city military companies newly recruited for "Law and Order."

Before touching its destination the bark and contents were captured on the bay by the efficient agents of the committee. Two men of the guard escaped to San Francisco and took refuge in the office of the captain of the company for whose use the weapons were intended. Hopkins, one of the Vigilante police, was sent to arrest these men, but he found in the apartment a number of people, including Judge David S. Terry, Justice of the Supreme Court of the state. Hopkins, encountering resistance, rushed out and, mounting a horse,

dashed to the headquarters, summoned assistance, and dashed back. Meanwhile, the party of half a dozen, including Terry, all well armed with shotguns and pistols, left the rooms and hurried along the streets towards the armory of the company.

But Hopkins overtook them, jumped from his horse, and undertook to pass Terry and another man, who formed the rear guard, the two men Hopkins sought being in front. Terry raised his shotgun, Hopkins seized it and pushed it down. Then a scuffle ensued, and Terry drawing a bowie knife, stabbed Hopkins deeply in the left side of the neck. A mêlée followed between the rest of Terry's party and a number of citizens who came to Hopkins' rescue, but, although a shot was fired, no one was killed or injured, and the assailed party finally reached the armory, which was quickly barricaded. The ominous song of the heavy bell crowning the summit of the Vigilantes' headquarters, rang over the startled and attentive metropolis. Merchants and clerks closed their shops, draymen unharnessed their horses in the streets, laborers and artisans hurried from their toil, the hotels and manufactories were emptied; members of the committee, hastening to headquarters, gave the password, were admitted, seized rifles and formed companies outside. All in good time, with decorum and gravity. In an hour the armory was sur-

rounded by thousands of armed and disciplined Americans and a peremptory demand made for the surrender of the inmates.

Resistance was hopeless and invited instant death. The armory opened its gates, those within, some sixty-eight, surrendered their arms, and were all marshaled down between ranks to headquarters where everyone was released except Terry, who was confined and strictly guarded in one of the cells, awaiting the outcome of the wound he inflicted upon Hopkins. This was the 21st of June, 1856. He was brought before the executive committee and the trial in its majesty and exemplary conduct is a marvel and example.

Terry was accused of the stabbing of Hopkins and resisting officers of the committee while in the discharge of duty; of an attack in 1853 on Mr. Roadhouse, a citizen of Stockton, in the courthouse of Stockton; of an attack on Mr. King, a citizen of Stockton, at the charter election of Stockton; of resistance in 1853 of a writ of habeas corpus by which William Roach escaped from the custody of the law and the infant heirs of the Sanchez family were deprived of their rights; and of an attack in 1853 on J. H. Purdy, in the city of San Francisco. To all of these several charges he replied in person and by evidence. His first statement began thus:

"It has been suggested that I should make some

written statement in reply to the charges made against me by your body.

"You doubtless feel that you are engaged in a praiseworthy undertaking. This question I will not attempt to discuss; for whilst I cannot reconcile your acts with my ideas of right and justice, candor forces me to confess that the evils you arose to repress were glaring and palpable, and the end you seek to attain is a noble one. The question on which we differ is, as to whether the end justifies the means by which you have sought its accomplishment; and as this is a question on which men equally pure, upright and honest might differ, a discussion would result in nothing profitable.

"I am aware that at times I have acted hastily. I am naturally of a very excitable habit, but it cannot be said by anyone that I ever sought difficulties. The specifications speak of my violent and turbulent habits; and what do they prove? That I will promptly resent a personal affront. One of the first lessons I learned was to avoid giving insults and to allow none to be given to me. I have acted, and expect to continue to act, on this principle. I believe no man has a right to outrage the feelings of another or attempt to blast his good name, without being responsible for his actions. I believe if a gentleman should wound the feelings of anyone he should at once make a suitable reparation, either by an ample apology, or, if he feels

that circumstances prevent this—that is, if he made charges that he still thinks true—should afford him the satisfaction he desires.

"I know that a great many men differ with me, and look with a degree of horror on anyone entertaining such sentiments. My own experience has taught me that when the doctrine of personal responsibility obtains men are seldom insulted without good cause and private character is safer from attack; that much quarreling and bad blood and revengeful feeling is avoided."

Amid the numerous witnesses who testified in Terry's behalf were Perley and Brooks, the former having been his legal associate in Stockton. Both these gentlemen appear later in his difficulty with Broderick.

Also came judges and sheriffs from Stockton, and people from all over the state. Terry conducted his own defense, and the proceeding lasted several weeks. It must be understood that only the executive committee, counsel of the defense and prosecution, and single witnesses were present, and that the hearings were in the executive hall, and entirely secret.

I extract this testimony from the evidence of R. P. Ashe, from whose apartment Hopkins was first ejected. "A man called Terrence Kelly came to see us. Terry was lying on the sofa. He said he had received notice to leave from the Vigilance

Committee and acknowledged that he had been instrumental in giving in false election returns. He evidently came for protection. Judge Terry said to him that it was such damned rascals as he was that people had a right to complain of who had produced all this trouble and that he ought to be hung. Kelly left and never returned."

The trial, which embraces seventy-five closely printed pages embodying the oral testimony and written depositions of numerous witnesses, lasted six weeks with this

VERDICT

First charge—Guilty.

Second charge—Guilty.

Third charge—Guilty.

Fourth, fifth and sixth charges—Dismissed.

JUDGMENT

"That David S. Terry, having been convicted, after a full, fair and impartial trial of certain charges before the Committee of Vigilance and the usual punishments in their power to inflict not being applicable in the present instance, therefore, be it declared the decision of the Committee of Vigilance, that said David S. Terry be discharged from their custody; and also

"Resolved, that in the opinion of the committee the interests of the state imperatively demand that the said David S. Terry should resign his position as Judge of the Supreme Court.

"Resolved, that this resolution be read to David S. Terry, and he be forthwith discharged from the custody of the Committee of Vigilance on this being ratified by the Board of Delegates."

He did resign his position as Judge of the Supreme Court three years later under other but equally untoward conditions. Hopkins lived, and was convalescent when Terry was discharged. It is very probable that if Hopkins had died Terry would have hanged. The committee were implacable.

Those opposed to the Vigilantes were styled "Law and Order" associates. They by no means desisted in their efforts, despite the overpowering moral and military ascendency of the committee.

Turning from the governor as impracticable, they appealed to the United States naval and military authorities at San Francisco. General Wool declared he should intervene only upon instructions from Washington. A committee left directly and, proceeding via Panama, interviewed the President at the White House. The President told them that until called upon officially by the state authorities the federal government could do nothing. He added that the proper method of procedure would be for the governor to summon the legislature in extra session, the legislature should declare the state in insurrection and authorize the governor to levy troops and forcibly suppress all insubordina-

tion. Then, if unsuccessful, the governor and legislature could call upon the President for relief, and it would be granted.

The deputation returned to California with this bootless message. For the members of the legislature, springing from the people and seeking reelection in the fall, were only solicitious to make their approval and endorsement of the Vigilantes decided and positive, and the governor dared not call them together, even if he had been so inclined, so that project was fruitless, and the committee remained resolute masters. Still, affairs progressed as usual. Courts met and adjourned, petty criminals were arrested, tried and judged. Over the state was the utmost quiet. The Vigilantes interfered with no constituted authority; only as censors, like so many Catos, they serenely contemplated the conditions.

From the police commissioner they took the ballot-boxes, still preserved, of the preceding elections. On a careful examination it was ascertained that the boxes had false bottoms and sides, skilfully contrived. These false compartments were stuffed with spurious ballots before polling; when the balloting was ended the contents of the box would be emptied on the table; the secret chambers opened, and the fictitious ballots fell in a heap with the genuine ones and were counted together. It was quite easy and

simple, and its efficiency was exhibited in the election of Casey and his friends.

The Vigilantes exposed this fraud to the public, and then nominated for the ensuing city election a ticket chosen by the committee and ratified by the Vigilantes in general, publishing the names several weeks in advance, and substituting other names when found desirable or necessary through public criticism. In November this ticket was elected to a man, and the same people and influences that inspired and controlled the action of the Vigilantes continued to rule San Francisco for a quarter of a century, during which it was one of the best-governed cities in the world. Directly after the election the Vigilantes held a grand review and then disbanded.

On the roster were between eight and nine thousand names, and nearly the entire host paraded. They had existed six months and the two assassinations in the city during that period could be easily computed. During the same half of the previous year the number of men killed by violence exceeded a hundred! That is what the Vigilantes accomplished. The reign of terror was ended and California was civilized by methods not sanctioned in civilization.

CHAPTER VIII

SENATOR

The Vigilance Committee, like the Native American party of the preceding year, does not appear to have seriously affected Broderick or his fortunes. He remained constantly and inviolably a Democrat, never swerving from his fealty. The American organization was evanescent and the Vigilantes confined to the city, with no special bearing on the legislature. The proof of this is exhibited when we find that in the November elections of 1856, while the Vigilantes elected every single one of their nominees on the municipal ticket, all, or nearly all, of the successful members of the legislature from San Francisco were Broderick men. The Vigilantes, according to their written tenet, recognized no party nor creed in their councils; only honesty and integrity, against dishonesty and crime.

It is true that formerly Broderick had the city government in his grasp and possessed it for years. It was the real foundation of his power and enabled him to live while he was growing. But the American party victory of 1855 had shattered his edifice, and the Vigilantes of 1856 completely de-

molished the structure. But by now he was regarded over the state as a statesman whose aspirations for an exalted station were known to everyone, and by virtue of this recognition he was not called upon to do "local politics," which must have been to him an immense relief.

Nevertheless, many of his errant followers were on the proscribed list of the committee and many more deserved to be. A man who had ruled a city for years must have been compelled to use and recognize elements that were sordid and vicious; elements that he must have despised, yet admitted to his acquaintance, for one cannot control men or multitudes with kid gloves and platitudes. Almost the only definite reference to the committee by Broderick or of Broderick is his own statement, made three years later, that "during Terry's incarceration by the Vigilance Committee I paid $200 a week to support a newspaper in Terry's defense." Like a wise man he left the turbulent geyser of the city to the calming influence of Time, that marvelous physician, and visited the towns, hamlets, camps and gold gorges of the interior. He met and interviewed each and every individual Democratic aspirant for the legislature from north to south and from east to west, exercising all his grave and impressive personality to gain their suffrages. One of these, Rogers of Tuolumne, relates that Broderick came to see him on a rainy day and they con-

ferred from sundown until late next morning. Rogers was obdurate; he was pledged to both Gwin and Weller, but did not so declare to Broderick. On the contrary, he said: "I will not vote for you, for when the Vigilance Committee was running the city your friends wanted to know where you stood, whether for or against them, and no one knew." But Broderick only replied: "When you come to San Francisco I wish you would come and see me." "No," said the sturdy Rogers: "I am not going to the city. I am going to Sacramento."

Of course, Broderick guarded silence respecting the committee, for it was indeed a double-edged blade; besides it was over, and what man will risk his political future over past questions? The present problems are always sufficiently absorbing.

Here, perhaps, I may advert to the story of George Wilkes and Broderick. Wilkes was of New York; a brilliant writer and bubbling Bohemian, but erratic and unreliable, with a peculiar reputation. He had known Broderick in New York and followed him to California, where he became one of the latter's political associates and adjutants. After a while they quarreled and Wilkes forthwith returned to New York. The idea or thought was industriously propagated that Wilkes was Broderick's brains; that every wise action was due to the prompting of Wilkes, and every unwise deed ascribed to Broderick himself. I can dis-

E. V. Sumner

cover no foundation for this assumption. Wilkes left California in 1854, and certainly my readers will coincide that Broderick's career thereafter indicated no abatement in energy or judgment. Doubtless in the earlier California years, when a meager opinion, based on ignorance, prevailed as to Broderick's mental and educational acquirements, a misconception of the man existed, and it took time to dissipate this prejudice.

General Worthington relates that when he came to California he imbibed the common sentiment against Broderick as a shoulder-hitter and brawling ruffian. One of his new-made friends, Colonel Monroe, a grand nephew of President Monroe, and, of course, parenthetically, a federal official, was a close personal friend of Broderick.

Worthington could not comprehend an intimacy between the aristocratic scion of the South and the knock-down and drag-out leader of the masses from New York City. On an occasion he and Monroe met several men at a hotel. Broderick was one of these; Worthington had never seen him. When presented mutually, Broderick's name was pronounced so indistinctly that the general did not hear. After a short conversation they separated, and Worthington said to Monroe: "Who was the remarkably affable and intelligent gentleman with whom we have been talking?" He was amazed to hear that it was Broderick. Their friendship dated

from that moment, and when garlanded with the silvered radiance of eighty-four years, Worthington could refer to his dead leader and the pathetic end only in broken accents and with humid eyes.

The election of 1856 included three parties. The Presidential nominee of the nascent Republican party was Frémont, the California path-finder and the first man to represent the state in the national senate. The American party was dying, almost as soon as born and, by now, was moribund, while the Republicans were alert and bold with the fervor, energy and devotion common to new religious and new political principles. The Democrats won, as usual, but for the last time in many years.

Buchanan was chosen President, and in California all the state officials, as well as the legislature, were safely Democratic. The Vigilance Committee carried and held the citadel of San Francisco, but did not intervene in state affairs.

An early estimate of the legislators-elect gave Broderick a preponderating majority of the Democrats, though not by any means of the whole legislature, for that body embraced in its membership Know-Nothings, Whigs and Republicans, as well as Democrats, the latter outnumbering all the others combined.

His triumphant position was recognized to that degree that when he returned to the city in Novem-

ber, directly after the elections, he received an ovation as if he already sat upon the throne. It was a gage of his ultimate success. The legislature met early in January, 1857. The condition and the problem confronting Broderick and his opponents were these: Two senators were to be chosen. I say two because Gwin's seat had been untenanted since 1855, and Weller's period of six years terminated in March, 1857. Therefore, the man chosen for Gwin's place would hold only four years, whilst the successor to Weller would serve six solid, long, important years, pregnant even then with war and death, with the welfare, nay, even the life of the great republic; and, therefore, the six years' prize was the highest reward of the tournament, and for it the knights prepared their lances and armor. Broderick found a half-dozen antagonists, each of them with votes, but the votes controlled by no one, nor even two allied forces could outnumber his warriors. Most of these men had remained loyal and faithful during the five years' campaign, marked with more defeats than victories, but never despairing and never rebellious. With the enemy divided and their champion in arms, they were buoyant, vigilant and energetic. One of them assumed the garb and duties of a waiter at a secret consultation of the allies, and thus hearing projects discussed, promptly divulged them to Broderick; only after the campaign ended did the conclave

know who had betrayed their counsels. But Broderick had heavy political debts accruing during the past years of struggle, which he should liquidate. What with the American party success of '55 and the Vigilantes' triumph of '56 in San Francisco he had been completely dislodged from that old haven, and his faithful retainers were wandering in the cold, cold world with not even a mantle of their master to protect them. He had never a mouthful of the federal provender, for his influence was local, not national. He was unknown in Washington, and the senators in the saddle very naturally gathered the game. The state administration was Know-Nothing, or American, and though in a condition of catalepsy, all the grapes were garnered and devoured by the few remaining members of that association. On the other side, however, the new national administration was Democratic and so was Broderick. It was customary at the commencement of each four years of a presidency to replace the federal incumbents by friends of the new régime. So, without impropriety or injustice, according to the recognized political tenets, one could foresee an entire and radical change emanating from the White House, involving naval officers, appraisers, mint, revenue service, postmasters, treasurers and other national employees—enough patronage to content even his hungry supporters. And as very few, indeed, of the

"Virginia Poor-House" collection supported him, Broderick could contemplate their funeral with equanimity. I have said it was enough for his people; but only if it were not divided. One is only one-half of two, and one-half would not be sufficient. He must have all.

In demanding the resignation of the patronage he saw no injustice. For all the years that Gwin had been senator none but pro-slavery men had received office from his generosity. There was but a single exception; and of those pro-slavery men the greater number were Southerners. Broderick could now reward his friends, remember Northern Democrats, and equalize the sectional distribution of appointments.

He examined these various problems carefully in the recesses of his silent, reflective brain, for, like Napoleon before Marengo, he realized the value of his position, and finally determined to demand not one but all the trophies. He resolved to be elected as senator for the long term of six years, to choose his colleague for the shorter period of four years, and to bind this associate to surrender the patronage.

First he must be elected for the long term. It is true that all precedents pointed to the filling of Gwin's seat first, which had been vacant since 1855, and his successor would only retain the office four years, for, though the term was six years, yet

it would date, according to the statutes, from the expiration of Gwin's incumbency. But precedents were made to be broken and Broderick was already proficient in the art.

With six men clamoring for the senatorship it would go hard, indeed, if he could not clutch the few votes necessary to his success. It must not be thought that these aspirants were not men of "light and leading." Weller was afterwards governor; Latham became both governor and senator, filling Broderick's post after his death; McDougall also ended his fitful career as senator, and Field assumed the ermine of a Justice of the United States Supreme Court.

The attrition of elements from over the entire globe that clashed in these early years of the golden state threw the best and brightest upward and forward. Up to now the Broderick-Gwin feud or vendetta was a misnomer. It became a stern verity later when the two men sat together in the Senate and differed on national questions; but at this epoch both were fighting all comers as well as each other. It is quite true that all California knew Broderick's inexorable, implacable, unyielding resolve, and all California knew that Gwin desired to return to his exalted station; but while these two were more distinctive, the other men I have enumerated were by no means negligible quantities. I have shown that in the legislature of 1854 they had united with

Gwin against Broderick because he was the stronger. Again in 1855 they coalesced with Broderick against Gwin, for then Gwin was more potent.

In 1856 the Know-Nothings preponderated, and all these warring Democrats allied themselves like everlasting friends to prevent the foolish and inexperienced American party virgins from taking the lighted lamp. And now in 1857, for the fourth time, the contestants assembled in the legislative arena. Let me also add that sectional sentiments controlled the situation to but a very slight degree.

The war had not yet begun, not even in California. Events trod on, one after another, faster and faster, with startling celerity within the coming years, but the shadows of the veiled future did not disturb the Sacramento gathering. On the contrary, men met in the camps and mountains and formed durable and sympathetic friendships which began and culminated under the California sunshine until the end, regardless of political or personal antecedents. All that happened in the East was forgotten and the new amities created out of the rising West endured forever. Broderick's principal lieutenant, Judge Frank Tilford, was a Kentuckian, and Randolph and Crittenden related to well-known Southern families, were his staunch partisans, while several of Gwin's most ardent supporters were Northerners. Neither Gwin nor Broderick had expressed himself as personally hostile

or antipathetic. No one of the several aspirants had placed himself by ill-timed word or fruitless action beyond the line of negotiation or compromise, so when Broderick confronted the array he was free to make any combination or combinations as his faculties and his friends commended.

Directly the legislature assembled a Democratic caucus was summoned to meet the third evening thereafter. Broderick's supporters announced that the caucus would be asked to vote for the long term first and he would be a candidate for that station. What were the others to do? He was stronger by far than any single opponent. Why then incur his enmity, especially as he hit hard and when the second seat remained, even if only for four years? He could afford to be neutral. They could hardly combine on one of themselves. That would not quench the losers' sorrow and they would gain no more by that than in beating Broderick.

Several attempts were made to win his favor for one or the other, notably for Latham, most of whose supporters were also the adherents of Broderick, but he very sagely held himself aloof. Why not? Like Miltiades at Marathon he was their second choice. On Thursday evening all the Democrats in the legislature, to the number of seventy-nine, met in caucus and adopted a resolution to ballot for the long term first. The division stood forty-two to thirty-seven.

SENATOR

Broderick was immediately nominated for senator; this much coveted six years, his only opponent being Weller, who was defeated by the same vote. Not much, it is true; only five, but enough, as said Mercutio.

The very next day, January 10, 1857, the legislature, in joint convention assembled, elected David Colbert Broderick as United States senator from California for six years, to begin March 4th, 1857.

The balloting stood:

David C. Broderick	79
J. W. Coffroth	16
Edward Stanley	14
L. Bynm	1
J. B. Weller	1

He received every Democratic vote. The official journal says that "the announcement of the election of Mr. Broderick was received with tremendous applause."

One of the beautiful classic legends of Greece (I wish there were more of them) relates that three golden apples were taken from the triply-watched garden of the Hesperides. But for the combatants in Sacramento there existed only two, and one had already fallen to Broderick. Therefore, the struggle for the remaining golden fruit of the senatorship was fierce and unpausing. The town was small, the hotels few and in near proximity. Each chevalier had his headquarters with patrols and scouts

to guard his own force from treachery and observe the movements of the enemy. Sacramento was overflowing with Californians drawn from the whole state, who came to help their favorite or to survey the field of honor. Every motive or argument of influence, of friendship, hate, love, anger, old feuds, old friendships, bitter memories and pleasant ones, too, were conjured, nourished, cherished and thrown in the swaying balances. We who float in these placid, smooth, ambitionless waters today find it extremely difficult to realize the fierce rivalry, the intensity of purpose and the sleepless energy of those few short days. Every motive, as I have said, was called into play except the vulgar, debasing one of money bribery. Not a single taint of corruption stains the escutcheons of those gentlemen who struggled so well and valiantly for their chosen chieftains. Votes were changed, but the reasons were well understood, and those reasons were honorable as well as human. The caste of political prostitutes was then unknown, and men continued free Americans.

They charged home, brandishing lances and swords, but fairly, with faces to the foe. It is said that for five nights and days Sacramento was as active by night as by day. No one seemed to sleep. The Civil War was not yet begun, but the blood-red veil of the future had commenced to chill the air and cool friendships. The days to come were

portentous and these men, strong and self-reliant, were anxious to be leaders among the elect.

Finally they stood, panting and exhausted, confronting each other. The five days' struggle culminated in a deadlock; no one had a majority and only superior power and prestige, hitherto unfelt, could cause victory to appear. Broderick had remained aloof from the fray, observing the daily and nightly assaults and parries; moodily biding the hour.

It came, and the embattled warriors like suppliants offered him fealty. Give the senatorship, that bauble solely, and he could have aught else. Patronage, prestige, all were his. They were ready to accept the seat on any terms whatever that he should impose. He chose Gwin. I have hitherto said that between Broderick and Gwin, up to their joint election, there was no personal or political antipathy. That came afterwards, and one of the potent reasons shall presently appear. Otherwise, why did he not select as his colleague some other candidate? That he could have done so is manifest. And his choice of Gwin was, from the standpoint of elevated statesmanship, a judicious one. They represented the two extremes, political and sectional of Democracy, and, therefore, their friendship should allay past jealousies arising from these causes.

Gwin had already served in the Senate, and his

acquaintance and influence earnestly and sincerely given to Broderick should render the younger man's beginnings in his new sphere more agreeable.

Broderick at thirty-seven was the second youngest member of the Senate. Gwin was fifty-two. They held a secret conference, and at the next caucus Gwin received a majority, and the day following was elected senator for four years, until March, 1861. On this same day, namely, the 13th of January, 1857, Gwin, published, over his signature, "an address to the people of California":

"I have thought it proper, in view of the senatorial contest, which has resulted in the election of Mr. David C. Broderick and myself to the Senate of the United States, to state to the people of California certain circumstances and facts which compose a part of the history of that arduous struggle.

"My election was attended by circumstances which rarely occur in the course of such contests. A representative, whose evil destiny it is to be the indirect dispenser of federal patronage, will strangely miscalculate if he expects to evade the malice of disappointed men.

"I had learned in the struggle that he who aids in conferring great official power upon individuals does not always secure friends, and that the force of deep personal obligations may even be converted into an incentive to hostility and hate. In a word to the federal patronage in the state do I attribute

in a great degree the malice and hostile energy, which, after years of faithful public service and toward the closing period of life, have nearly cost me the endorsement of a re-election to the United States Senate. From patronage then and the curse it entails I shall gladly in future turn and my sole labor and ambition henceforth shall be to deserve well of the state and to justify the course of the legislature in honoring me a second time as a representative of its interests.

"I have hinted above at other aid than that received from those whom I have regarded as friends; I refer to the timely assistance accorded to me by Mr. Broderick and his friends.

"Although at one time a rival and recognizing in him a fierce but manly opponent, I do not hesitate to acknowledge in this public manner his forgetfulness of all grounds of dissension and hostility, in what he considered a step necessary to allay the strifes and discords which had distracted the party and the state. To him and to the attachment of his friends I conceive in a great degree my election is due; and I feel bound to him and them in common efforts to unite and heal, when the result heretofore has been to break down and destroy."

This clear and intelligent document made quite evident to the least discriminating the price Gwin paid for the senatorship. It was neither obscure nor dubious. It was addressed to the people. Two

days previously, however, before he was elected, he presented to Brodrick the annexed letter.

"Sacramento City, January 11, 1857.

"Hon. D. C. Broderick, Dear Sir: I am likely to be the victim of the unparalleled treachery of those who have been placed in power by my aid and exertion.

"The most potential portion of the federal patronage is in the hands of those who, by every principle that should govern men of honor should be my supporters instead of my enemies, and it is being used for my destruction. My participation in the distribution of this patronage has been the source of numberless slanders upon me that have fostered a prejudice in the public mind against me and have created enmities that have been destructive to my happiness and peace of mind for years. It has entailed untold evils upon me, and while in the senate I will not recommend a single individual to appointment to office in the state. Provided I am elected you shall have the exclusive control of this patronage, so far as I am concerned; and in its distribution I shall only ask that it may be used with magnanimity and not for the advantage of those who have been our mutual enemies and unwearied in their efforts to destroy us.

"This determination is unalterable; and in making this declaration I do not expect you to support me for that reason, or in any way to be governed

by it; but as I have been betrayed by those who should have been my friends, I am in a measure powerless myself and depend upon your magnanimity,

"Very respectfully, your obedient servant,

"Wm. M. Gwin."

The existence and contents of this "scarlet" letter Broderick never divulged, though at times he had rare provocation, for two years and a half. A month later he was slain!

On his return as a senator to San Francisco he was received like a triumphing Roman. Processions, addresses, illuminations, the roar of ordnance and the whole town to acclaim. In several of the interior cities, as in Benicia, special entertainments were presented. It should have been soothing to his perturbed spirit, for it was generous and spontaneous. Those who had opposed him most strenuously during the years chivalrously said: "He has won fairly and manfully in fair fighting, and he deserves his success."

But Broderick was not unduly elated. He received the plaudits with dignity and in silence. Now that he sat in the chariot of the sun, would he prove able to guide its course among the stars? After winning life's goal, there be disappointments ever and oft. The stimulus of seeking is more soul-stirring than the pleasure of possessing.

CHAPTER IX

WASHINGTON

The two senators departed from California together, going by steamer, via the Isthmus route, which was relatively speedy and more comfortable, the voyage to New York occupying somewhat less than a month. Gwin continued on to Washington, while his brother senator remained in New York for a few short days. The latter's former friends, personal and political, welcomed his advent with warm demonstrations. The distinction he had achieved and the redemption of the assurance announced on his departure eight years previously that he would never return "except as United States senator from California" were recalled and recognized.

He was cordially and heartily greeted. The municipal authorities adopted resolutions welcoming him to New York and he was the guest at several banquets where were gathered the city's best. The New Yorkers seemed to regard him as one of them and his success a personal triumph. Yet, in perusing their encomiums one cannot discern a very strong note of surprise. One might say that it

was expected; so strong a sense of his personal ability and energy had he inspired.

His New York friends seemed to think he would move farther and higher. But he hastened from these vanities, as he had from home tributes, and journeyed to Washington, where his new life would have its inception. Here he was presently to know how void and futile become written promises when the will to execute them is wanting and how much larger were national than state issues.

Congress assembled in March and, in accord with the senate's unwritten mandate, he found himself condemned to silence in that chamber for the entire session. He was received, however, with more attention than was usually tendered to a new senator, and one so young.

His indomitable struggle and final success had been observed and heralded in the East and South. Everything transpiring in that far California, near the dying sun, was of more than fleeting interest to the older commonwealths. The rumor that he had dictated the election of his colleague and brought him "to Washington in chains" was piquant and fruitful of comment. Especially the few Republican senators who represented the beginnings of that patriotic organization took him to their hearts. They had been Democrats or Whigs before apostasising. This young man of serious demeanor and plebeian Northern stock had a future, and in the

portentous events that the wise felt impending, what might he not do, perhaps at their side? Wilson was a shoemaker; Johnson a tailor. Both were then senators and one subsequently became Vice-president and the other President of the United States. Still, these were the rare, unique exceptions. No one except of superlative birth and breeding, was considered eligible. We have changed all that, let us hope, for the better.

Broderick was the first senator sprung from the masses, far more distinctly so than Johnson and Wilson, and his personality was infinitely more commanding. If it be asked why then did they advance higher, I will reply that they lived, but he died.

He was born in the capital and the Washingtonians celebrated the coming of "their senator" with Roman freedom. I am not aware that they have since had an opportunity to repeat the festival. But Gwin had friends, sage and astute friends, who had moved in the changing political currents of the nation's capital for years, and who, above all, were known to the President. Broderick's reception by Buchanan was not cordial; as he said after his first visit: "It was cold without, but icy within." The polished old bachelor, who preferred knee buckles to breeches and a powdered wig to nature's covering, was not impelled toward the stern, haughty young senator, who, with West-

ern brusqueness demanded, rather than requested, presidential favors.

It was rumored and believed, both in California and Washington that Broderick had promised more persons than there were positions. The names of three individuals who had been assured by him of succession to the same office, were uttered aloud so that all could hear. Yet only one could win. Doubtless it was true. He may have followed the precept of Euripides:

Be just; unless a kingdom tempts, to break the laws,
For Sovereign power alone can justify the cause.

When next Broderick visited the White House and suggested a certain appointment he was told by the President that it would be made provided the senator would submit the application, in writing, with his signature. Broderick asked if this had hitherto been the rule. Buchanan said it had never been practiced by any of his predecessors, but he chose to establish the innovation for his own protection and the service of the state. He added that Broderick was the first man of whom he asked this pledge, but that, of course, it would be applicable to every member of congress. Broderick left the White House in anger and fury. He saw too clearly the whence and why this unparalleled stain on the word of representatives of the nation, and recognized the source which had inspired the docile brain of America's chief. To checkmate him, Gwin

and his friends had invoked a radical alteration of the customs and courtesies existing between President and Congress since the foundation of the republic!

This condition, as then instituted, remains unaltered, and is just and equitable; but it first sprang from the fertile brain of Broderick's enemies. He repaired to the White House again and again, but was met by the placid obstinacy of the President.

There was a legend current, which may be apocryphal, that after leaving the President on his last visit Broderick stood on the steps of the White House enclosure, facing Lafayette Park, and denounced Buchanan in language more picturesque than polite. Like his friend, Judge Field, he possessed a superlative vocabulary of adjectival expletives. He never again entered the portals of the executive mansion, and he never again asked a favor of the President. The latter made his California appointments leisurely and with deliberation. Scarce a single one of the federal horde could be considered other than an opponent of Broderick. In fact, Buchanan out-Gwinned Gwin and displayed personal animosity to the junior California senator most conspicuously.

Broderick stayed in Washington only a few days and hastened home to engage in the nominations and elections during the summer and fall. The convention was organized against him. The nomi-

nees were his foes, with the solitary exception of Supreme Judge Field, and Broderick had but this single success to lessen his chagrin.

Field was sworn as Judge of the Supreme Court of the state of California on January 1, 1858. Judge Terry had become chief justice a few months earlier, succeeding on the death of the previous incumbent. Field and Terry thus sat side by side on the Supreme Bench, the latter as presiding judge. It is proper to align this statement clearly, for it tells us that the two men knew each other very well, indeed. They were not strangers when they met and clashed years after, and the knowledge of each other's characteristics must have qualified their actions.

The rupture of Broderick with the President was not yet fully known in California nor its gravity appreciated. Those of his supporters who had anticipated official rewards looked at his empty hands with equanimity and made little complaint, much less, perhaps, than they might have been justified in doing.

After all, there did not appear to be so much selfishness as one might have expected. The men who had fought his battles and carried him to success were cheerful and contented. He was senator, and they waited to see his wings spread like others in the national halls. He was senator, and they had won; as for the rest, it did not matter much. Cali-

fornia was gentle, gracious, lovely, abounding, and there were many other avocations besides playing gentleman in federal boudoirs. A philosophic fortitude under disappointment is not difficult, when the disappointment is easily compensated.

For the rest Broderick remained very quiet, attending to his personal interests that had been neglected during his engrossing political campaigns. He was indebted quite largely, and most of the water lots that he possessed and which were his main holdings were unimproved. He filled some, sold a few, and built on others. They had been chosen with rare judgment and were rapidly increasing in value, as the city extended eastward into the bay. The shallow mud flats were filled with sand, wooden piles driven deep down to a firm foundation, heavy planks fastened to the piles, and on this superstructure strong brick edifices were constructed. Streets led into the waters, and the quays advanced fully a quarter of a mile from the westerly point of debarkation in the record year of 1849.

All this promised to make him a wealthy man. The remarkable purity of his life and the simplicity of his wants made his personal expenses quite limited. He applied himself severely to a careful reading of instructive works. He was fond of poetry and the contemplative Shelley was his favorite. He had a private, secluded apartment,

where night after night, he studied like a school boy. Washington had taught him his deficiencies.

But he contributed largely to political requirements and assisted his friends, when asked, which was infrequently. Independence and self-reliance characterized the young men who made the California of the fifties. "Old Gwin" was the universal appellation of Senator Gwin, and yet he was only fifty-two when elected as Broderick's colleague, and he had been distinguished since the state was born. The average age of the arrivals in 1849, when the immigration exceeded that of any preceding or subsequent year, was twenty-five years, and 1857 was only eight years later. The state was settling fast. The human tide that flowed in 1848, upon the gold discovery, had not yet ebbed. Nearly every steamer from Panama brought a full complement of passengers and others came in different ways over seas and over lands. At first they came alone, but now they brought families, women, children and other relatives, who came to abide. The fallacy that California was arid, barren, and only good for gold had vanished. Cereals were largely cultivated the production of fruits and wines increased, and their quality improved. The sweetness and softness of summer life, under the slopes of the Sierras, with atmosphere anointed by the balsam from the pines, enthralled and fascinated.

Cabins were substituted for tents, houses for

cabins, and towns for camps. Churches and schoolhouses appeared. The red shirt and top boots disappeared; people apparelled themselves as in other parts of the world, and the custom of "a man for breakfast" was abolished. The Vigilance Committee in San Francisco not alone cleansed that city, but distributed its moral medicines over the entire state. Crimes diminished markedly, and everywhere the Vigilance Committees serenely slumbered. The terrible remedy has never again been invoked, showing how well it slew the dragon then rampant—today an indistinct memory.

Only a single episode stands forth in the campaign. In replying to a political communication, Broderick observes, "I challenge my enemies to produce a man within the length and breadth of the state whom I ever deceived or to whom I ever falsified my word." A strong asseveration which would hardly issue from one who had reason to apprehend the result. But in the same statement he added that there were no conditions whatever between Gwin and himself respecting the federal patronage. Which was untrue as well as sacrificing of self, for one whose bond he held and who had outwitted him at Washington. Evidently he did not seek a rupture and was willing to shield Gwin.

He returned to Washington by Panama and was in his seat when the thirty-fifth Congress assembled in December, 1857. He had stepped from the

rear to the front, from a local to a national theatre, from Sacramento to Washington. Grave and dangerous problems agitated the country. Abraham Lincoln, a man of his own type, was rising in Illinois and preparing for the contest with Douglas in the ensuing year. The ferment among people was shattering the old aristocracy and sending men from the ranks to become leaders.

A revolutionary spirit pervaded the land. The political issues were momentous. The depreciation of state-bank currency rendered indispensable a change in the monetary system. The building of a railway to connect the Atlantic coast with the Pacific slope was imperative. Statutes to preserve public lands and secure homesteads for actual settlers were demanded. There was open rebellion in Utah and the situation in Kansas bordered on civil war. The Dred Scott decision lately promulgated by the United States Supreme Court had been extensively circulated throughout the nation with bitter comments, denouncing it as the unrighteous judgment of a partisan tribunal.

President Buchanan referred in his message to these subjects and made certain observations on the Kansas question which at once caused an animated controversy, continuing throughout the session. The territorial legislature of Kansas in February, 1857, passed an act providing for the election of delegates in June of the same year to a

convention to meet in the following September and frame the state constitution.

But the legislature wittingly omitted in this act to provide for the submission by the convention to the people for ratification of any instrument adopted or adapted as a constitution by them. When the convention chosen in pursuance of this provision assembled in September at Lecompton, Kansas, it framed a state constitution.

One article of this instrument provided that only that portion of the document which embraced the question as to whether the new state should be admitted to the Union "with or without slavery" should be referred to the populace for rejection or ratification. A second article largely nullified in advance whatever decision might be given by the people by inserting in a schedule the provision that the rights of property in slaves already within the confines of the territory should be recognized.

This nullifying clause and the failure to refer the entire constitution instead of one or two qualifying sections to the people for their action, added to the lack of authority in the legislature to call the convention which framed the constitution, caused Stephen A. Douglas intense chagrin and disappointment.

Douglas was the leader of the national Democracy and had been the principal opponent of Bu-

chanan for the presidential nomination in the last national Democratic convention.

Not then a pronounced anti-slavery advocate, he resolved to oppose the admission of Kansas with that constitution. It was difficult for Northern Democrats, whose life-long political associates from the South had dwelt with them in complete concord, to sever the ancient ties without regret and with reluctance.

To Broderick it came easier. A New York City man by training, though a native of Washington, he had the natural objection of those who had worked for a living to the existence of servile labor, and he objected still more to contemplate the exigency of toiling side by side with black men, themselves slaves. He remembered that on the same question the miners in 1849, coming from all quarters of the globe, sent up from the gold-fields a resonant shout, "No slaves nor fugitive labor in California!" He remembered also that Gwin, then a member of the California Constitutional Convention, had silently bowed his head to this insistent roar and uttered no objection. And now this same Gwin was advocating slavery in a new state, applying for admission into the Union under conditions precisely analogous to those that obtained in California nine years earlier. It was true that he was then only an unknown member of the convention, while now he represented his

state in the Senate. The one was local, the other national. Gwin and Broderick were not so far apart in ideals. Broderick told Sickles in 1849, when leaving New York for that unknown land whose strands were laved by the waters of the Pacific, "I will never return unless as United States senator." Gwin also when departing from Washington for the Land of Hope the same year, said to Douglas, "I will be back in a year as senator." Both succeeded, Gwin having won within his year. Gwin but followed where his people led. He was not a prophet, only a devotee.

It was as natural for Broderick to oppose slavery as to breathe. For he breathed the air of freedom. At this period few foresaw the future; certainly not the Northern element. Neither did Broderick; but his resolute, undaunted character refused compliance and repelled seduction. He therefore allied himself at once with Douglas, the two with one other, Stuart from Michigan, forming the Democratic trio of senators who originated the war upon slavery. In December he pronounced his first discourse in the Senate. He opposed the Lecompton constitution and boldly confronted the President and the Democratic majority of the Senate. He severely criticised Buchanan for insisting that the sovereign people of Kansas should accept the decision of a convention clearly unauthorized by any valid law, and no less emphatically

condemned the convention itself. It is interesting to peruse a fragment of this address:

"As I am the only senator, I believe, on this side of the house who feels disposed with the senator from Illinois and the senator from Michigan to oppose the Lecompton constitution, I should like before the adjournment of the Senate today to be heard for a very few minutes on this question.

"It is the first time that a President of the United States ever stepped down from the exalted position he held and attempted to coerce the people into a base submission to the will of an illegal body of men.

"I am very sorry that I am placed in the unfortunate position of disagreeing with my party on this question, for I believe that I rendered as much service in my way in the election of Mr. Buchanan as any gentleman on this floor. He was my choice before the convention at Chicago met. I considered him the most available and most conservative candidate that could be presented to the American people for election to the presidency, and for that reason I supported him. I regret very much that I am compelled to differ with him on this question; but, sir, I intend to hold him responsible for it.

"I do not intend because I am a member of the Democratic party to permit the President of the United States, who has been elected by that party

to create civil war in the United States. The only thing that has astonished me in this whole matter is the forbearance of the people of Kansas. If they had taken the delegates to the Lecompton convention and flogged them, or cut their ears off, and driven them out of the country, I would have applauded them for the act. I have spoken for the purpose of placing myself right upon this question.

"I feel embarrassed, very much embarrassed, in doing so, because this is the first time I have ever attempted to address the Senate of the United States."

From its lack of symmetry it is very clear that he did not carefully prepare this speech, but it evinces his forthright frankness and detestation, almost contempt for the President. He did not expect or apparently desire a reconciliation. Several weeks later, when the same envenomed subject was again discussed in the Senate, he was quite conspicuous in making motions and short speeches. For awhile he seems to have been in complete charge of the business on the part of the minority, especially including filibustering tactics, which suited the present purpose of his faction.

Again in March he delivered a set address, evincing careful study and reflection. He gave a clear, connected, Attic description of slavery enactments of the congress from the Missouri Compromise

in 1820, citing copiously from the utterances of eminent champions on either side, up to the measure then under debate. I shall quote only briefly. Speaking of slavery and of the intent of the bill to give the territories an option on slavery, he said: "How foolish for the South to hope to contend with success in such an encounter. Slavery is old, decrepit and consumptive; freedom is young, strong and vigorous. The one is naturally stationary and loves ease; the other is migrating and enterprising." It would be difficult even now, fifty years after the event, to phrase the conditions more accurately. Continuing, he said:

"They say cotton is king! No, sir, gold is king. I represent a state where labor is honorable; where the judge has left his bench, the lawyer and doctor their offices, and the clergyman his pulpit, for the purpose of delving in the earth; where no station is so high and no position so great that its occupant is not proud to boast that he labored with his own hands. There is no state in the Union, no place on earth, where labor is so honored and so well rewarded; no time and no place since the Almighty doomed the sons of Adam to toil, where the curse, if it be a curse, rests so lightly as now on the people of California."

A Southern senator had stigmatized Northern laborers as "mudsills," an expression that was the ultimate cause of more injury to their doctrines

than fifty regiments of federal troops, for it angered and solidified the Northern masses.

Broderick quoted this previous observation and continued: "I suppose the senator from South Carolina did not intend to be personal in his remarks to any of his peers upon the floor. If I had thought so I would have noticed them at the time. I am, sir, with one exception, the youngest in years of the senators upon this floor. It is not long since I served an apprenticeship of five years at one of the most laborious trades pursued by man, a trade that from its nature devotes its followers to thought, but debars him from conversation. I would not have alluded to this if it were not for the remarks of the senator from South Carolina, and that thousands who know that I am the son of an artisan and have been a mechanic would feel disappointed in me if I did not reply to him. I am not proud of this. I am sorry it is true. I would that I could have enjoyed the pleasures of life in my boyhood days, but they were denied to me. I say this with pain. I have not the admiration for the men of that class from whence I sprang that might be expected; they submit too tamely to oppression, and are too prone to neglect their rights and duties as citizens. But, sir, the class of society to whose toil I was born, under our form of government, will control the destinies of this nation. If I were inclined to forget my con-

nection with them, or to deny that I sprang from them, this chamber would not be the place in which I could do either. While I hold a seat here, I have but to look at the beautiful capitals adorning the pilasters that support the roof to be reminded of my father's talent and handiwork.

"I left the scenes of my youth and manhood for the far West because I was tired of the struggles and the jealousies of men of my class, who could not understand why one of their fellows should seek to elevate his position above the common level. I made my new abode among strangers, where labor is honored. I had left without regret. There remained no tie of blood to bind me to any being in existence. If I fell in the struggle for reputation and fortune there was no relative on earth to mourn my fall.

"The people of California elevated me to the highest office within their gift. My election was not the result of an accident. For years I had to struggle, often seeing the goal of my ambition within my reach; it was again and again taken from me by men of my own class. I had not only them to contend with, but almost the entire partisan press of my state was subsidized by government money and patronage to oppose my election. I sincerely hope, sir, the time will come when such speeches as that from the senator from South Carolina will be considered a lesson to the laborers of the

nation." He concluded in these words: "I hope in mercy, sir, to the boasted intelligence of this age, the historian, when writing a history of these times, will ascribe this attempt of the Executive to force this constitution upon an unwilling people to the fading intellect, the petulant passion and trembling dotage of an old man on the verge of the grave."

This speech made Broderick a marked man. It was published in full by several potent Eastern journals and by part of the California press. The allusion by the son, standing erect among his brother senators in the stately hall, to his father's genius exhibited aloft on the carven entablature, created sympathetic admiration, and the declaration that no kindred blood flowed in the veins of any living being caused a sentiment of kindly respect for this lonely figure from the Pacific shores.

The words in which he refers to Buchanan so contumeliously were the first public expression of his opinions. Several writers have stated that Broderick denounced the President a year previous but that is an error. He guarded silence in the Senate as custom ordains during the first session in March, 1857, and in fact remained only about six weeks in Washington on that occasion. In December, 1857, he censured the Executive for his course in the Lecompton issue, but only now, in March, 1858, a year after his accession, did he an-

nounce their relations in these bitter phrases. Broderick had ample provocation long before, as far as patronage was in question, for it is not in evidence that Buchanan gave him a single appointment nor is it in evidence that he asked for a single one. Nevertheless, with true dignity, he felt that to embroil himself with party and President for a few trifling offices would neither be judicious nor creditable, and when he did make the issue it was on a grave and national question from which he could not recede, and wherein his decision gained him the plaudits of the entire North. Even toward Gwin, who was placidly fattening on the official provender that he had filched, I can discover no expression of rancor nor resentment. All through this session, when Broderick alludes to his colleague, it is pleasantly and with decorum. Indeed, most of his allusions refer to Gwin as absent when measures affecting their state were under discussion. The latter was not very assiduous, while Broderick never missed a session nor a committee meeting. Gwin rather carped at Broderick's oratorical accomplishments, while the latter retorted that whenever the former commenced to read one of his dreary exhortations, the chamber was deserted by all save the speaker, Broderick and one more senator. Broderick remained through courtesy and the other man through pity. I must again destroy the fallacy that George Wilkes wrote

this speech or any other speech for Broderick, or that he was either his Mentor or his Mephistopheles. Can anyone for a moment surmise that Wilkes wrote that simple passage about his father, or that solemn statement of his loneliness amid countless millions? The lack of polish and rhetoric are manifest in all Broderick's public utterances, which Wilkes would not have omitted; but the sincerity, earnestness and clear, direct statement belong to the man, and the worldly Wilkes could not have evolved them. This Wilkes cult was formulated by a writer not overly just to Broderick and adopted by subsequent historians without sufficient investigation. Those who read with me do not require the conviction that if ever there was a bold, self-reliant, venturesome man, it was Broderick; one of those who do not need nor seek advice or inspiration. What such men really lack is not one to guide their footsteps, but to keep them still. They want not so much propulsion as a brake.

In this work I have endeavored to seek original sources of information. I have accepted no statement, even if printed, without cognate and competent authority. I am writing history, not romance nor fiction. I have not read a single volume treating of these troublous times that does not display bias and imperfect knowledge. For the reason that they were written either by participants, spectators or contemporaries. History, be it said,

Tremont Hotel
San Francisco
Private August 16/58

My Dear Sir

Yours of Saturday came to hand this morning. I cannot find a copy of Douglas last speech in the Senate. The last quotation you can give to the charges that Douglas has gone over to the Administration is to publish his late speech at Chicago, and the paragraph in the Sunday Herald of the 20th of July, headed "Going it alone," and "Senator Douglas at Chicago". I am in receipt of cheering news from the Mountain counties.

Truly Yours
D. C. Broderick

James W. Coffroth Esq.

however strange, is best written after all the actors are dead.

The project of a railway between the two oceans was conceived at an early epoch, and many bills in relation thereto were presented to Congress. At this session several distinct routes were proposed and Broderick energetically advocated the 41st parallel as the best and most central location. There were others who advocated more northerly and southerly lines and no decision was reached.

In one day, by his promptness of action, he secured the consideration and passage of three important measures affecting California.

Because of the increased cost of living in early California days, the federal officials were allowed larger salaries than in other states. Broderick contended that household expenses had decreased to a normal condition and therefore the government should lessen its payments.

Inasmuch as no one of the officials were his appointees or friends, that was a labor of love as well as economy, and he was vigilant in examining appropriation and deficiency bills. There was no gainsaying this position, and he relentlessly decimated the perquisites of Gwin's adherents without much difficulty, for the latter frequented the Senate but seldom.

The wits of Congress might have said, follow-

ing those of Rome, that the name of one California senator was David and the other Broderick.

Nevertheless, at a certain sitting, Gwin was decidedly present, for he presented to the Senate resolutions of the California legislature instructing their two senators to vote for the Lecompton constitution. The resolutions were read, and Broderick immediately said that "the resolutions introduced by my colleague will have no influence upon my action here, now, or in the future. I am satisfied that four-fifths of the people of California repudiate the Lecompton fraud.

"I shall respect the wishes of the people and pay no respect to the resolutions passed by a legislature not representing the opinions of the people of California. I merely say this now for the purpose of placing myself on the record." Of course this was not the legislature that elected Gwin and himself, but a new body.

Frémont, the first senator from California, who had been the year before the first nominee for the presidency of the newly created Republican party, had presented to Congress claims for services while engaged in the Mexican War. Some moneys had been paid Frémont, but for the moiety he had been vainly pleading session after session. It illustrates the tendency of Broderick's political views to learn that, with his usual diligence and earnestness, he advocated a settlement and payment to this Republican, and finally succeeded.

CHAPTER X

DISSENSION

After the adjournment in June, 1858, Broderick returned directly home. He found that his reputation had increased and so had the number of his enemies.

The rupture with the administration was palpable and his anti-slavery sympathies were equally clear. Californians were inclined to think him premature and precipitate. Even the Northerners doubted the justice of his positive declarations, and as for his Southern friends, their numbers had diminished.

The first sound or sight of war is on the firing line, and Broderick in Congress saw farther than the inhabitants of distant California. Unable to reward his friends, censured by those whose judgment he valued, and compelled to differ with an organization to which he had been always loyal and devoted, his position was excessively difficult and disagreeable. He could not proclaim what he feared and foresaw, for no one would credit him. To one friend, and this man a Republican, he confided his belief that "the Southerners would stop at nothing, even to the disruption of the Union."

This statement was expressed three years before the war. Not many Northern men possessed the same prescience.

Broderick kept his soul in patience, attended to his private affairs, which were prosperous, qualified for the bar and, after a detention of only three months, left for Washington.

But, prior to his departure, there occurred in August of the same year one of those events that are never forgotten, but which, on the contrary, recall themselves, accompanying distrust and foreboding.

W. I. Ferguson, from Pennsylvania and Illinois, was a member of the California Senate, representing Sacramento. He served in the legislature for several years, beginning like Baker as a member of the Native American party, and subsequently reverting again to the Democracy. He voted for Broderick at his election and was the intermediary who arranged the midnight interview between Gwin and Broderick on the evening preceding the former's selection by the caucus. To Ferguson had been confided the custody of the personal letter from Gwin to Broderick renouncing all claim to patronage, which was the price of Gwin's elevation. The secret of this document's existence and the identity of its possessor must have been known to but very few. It carried death amid its pages.

During the Congressional session of 1858, as I

have already indicated, Broderick's position with reference to party and President had been clearly defined. Ferguson, a brilliant young attorney with Northern antecedents and predilections, came to the aid of Broderick and Douglas. In an eloquent and effective harangue he declared his faith in and conversion to their doctrines, and bitterly condemned Buchanan. The address delivered in the state Senate made Ferguson a marked man.

At San Francisco a few months afterwards, he became involved in a trivial political dispute with a Southern gentleman, who promptly challenged him. Ferguson was shot in the duel that ensued and died after suffering the torture of having a leg amputated. It was a warning to Broderick, Baker and other Northern men. Events were hastening. The national differences were leavening California, and the leaders of the North were being struck down. This is what Baker said in his eulogy on Ferguson—the same immortal Baker who, a year later, delivered the panegyric over a more illustrious victim: "He stood four fires at a distance of scarcely twenty feet with a conviction that there was a strong determination to take his life—that the matter should be carried to extremity—and that, too, when until the day before, he had never fired a pistol in his life." Ferguson's successful antagonist was a practised duellist. The night following Ferguson's

death his office desk was found broken open and the contents scattered.

Broderick averred the next year, when canvassing the state, that Ferguson's desk was rifled with the hope of securing possession of the "scarlet letter," and added that Ferguson, on his death-bed, intrusted the letter to General Estill, who kept it in secrecy until restored to Broderick. This was the second Northern statesman killed in a duel with a Southerner. There was a sentiment that it was too much like skill against ignorance, practical training against its absence. It was fate that the element of equality was lacking. The civilian is no fair match for the soldier when the former has not been trained to the use of arms; nor, although his courage is high and he may have a profound conviction that he is right, will the contest be therefore equal and just.

To inaugurate and test the first line of coaches from the Pacific, Broderick journeyed by land to St. Joseph, Missouri, at that time the railway's western terminal. A boat-load of faithful friends accompanied him to Benicia where he took stage for the East, after a banquet, reception, addresses and salutes. After all he was California's senator and typically represented the state.

It shows how his fame was enlarging to read that the mayor and common council, of Salt Lake City waited upon and tendered him its hospitality. He

was assigned special apartments and visited by many distinguished citizens, including Brigham Young and other Mormon church dignitaries. He was told that he was the only man from the West in whom they trusted and he was implored to aid and protect the people and territory of Utah, and to act as their friend and representative in Congress. The journey to St. Joseph by stage coach took forty-seven days including a stay of a week in Salt Lake. Going down a steep mountain grade the vehicle upset, fracturing one of Broderick's ribs, and he arrived with frost-bitten feet and generally debilitated. In those early staging days across the plains, people did not know how to guard against the asperities of the weather and Broderick nearly became a victim to inexperience. Still he assisted to open this great overland thoroughfare, the success of which was of importance to California's development, and, partially recovered, was present in Washington at the December overture of Congress.

When the committees were announced he discovered that his name had been dropped from the important Committee on Public Lands, of which he had been a member since his accession.

This was done because he was known to strongly favor a Pacific railway. The Southern element, who controlled Congress and the President, was

indisposed to such a project, if not, indeed, positively hostile.

While the Southerners hoped in the conflict which they knew was inevitable—to retain California as a slave state—still the railway's Eastern terminus would be among the Western middle states, which were free soil; hence they preferred that there should be no road. Moreover, as developed during the discussion, they wished any projected route to be South of parallel 36° 30′—that line being the accepted division between slavery and freedom in the extreme Western states and territories. The Northern advocates, however, demanded the forty-first parallel or neighboring degrees. The more southerly line would be through Texas and touch California at its extreme southeastern point. From there San Francisco was hundreds of miles distant. If the government rendered assistance it was contemplated to the state line only, so this southern railway would have to be extended north for 500 miles to San Francisco without federal subsidies. All these various projected railways are now completed, but it was very different fifty years past. For this 36° 30′ meant, if completed, a railway within Southern lines. If not constructed, so much the better; and the more obstructions the less possibility.

Broderick had studied existing conditions carefully. He had made the arduous and fatiguing

stage journey of forty days to familiarize himself with the country. Therefore, to minimize his influence he was deprived of a place on this committee, although California was most vitally interested and he himself, perhaps, the best informed man in Congress on this absorbing question of a railway from ocean to ocean.

But the statesmen who represented the South did not do things by halves. Gwin introduced a railway measure early in the session, read a two hours' lecture to the Senate, and then—no more.

His bill designated the line of 36° 30′. He rarely attended the earnest and intelligent as well as numerous debates. Broderick complains more than once that his colleague's absence left him without assistance. Indeed, on the approach of the final vote, he directly asked Gwin if he was in favor of the measure that he had himself presented, and the latter did not reply. The pity of it was that Gwin sacrificed his state to his Southern friends and affiliations. Not that he loved California less, but he loved the South more. The measure finally passed the Senate with no special parallel indicated, and perished in the House.

The legislature elected in California this year was anti-Broderick. The state and federal powers were in perfect and consistent alignment against him. Every state and federal officeholder was his foe, and his friends did not realize the underlying

cause. Only himself, alone at Washington, and his enemies knew and forecasted the future. Broderick's intellectual sagacity surpassed even that of Douglas with all the latter's years of political knowledge, for he would not or could not observe the red light on the horizon increase in its balefulness of unhappy portent.

This legislature condemned Broderick by resolution for not complying with the instructions of its predecessor relative to the Lecompton constitution and stigmatized his words applied in the Senate to the President as a disgrace and humiliation to the nation and people. I have related elsewhere both the resolutions of the preceding California body and Broderick's objurgation of Buchanan, to which the last resolutions applied.

I have been unable to discover that these later declarations of the legislature were presented to the Senate, as were the first. Other Northern senators in those days were reprimanded by their timid and thoughtless constituents, who dreamt the difficulties could be settled with words. There were Cass, Pugh, Bright, and even Sumner. It is true that in every instance reparation was ultimately made.

The California legislature of 1861 expunged all these violent diatribes against Broderick, and his memory with becoming dignity and indignation, but that was two years after he had fallen.

Meanwhile the bitterness of it rankled in his lofty spirit, and he must have doubted if, after all, he should be wrong. He had one rasping rencounter with Gwin, taunting him with his free-soil doctrines in the California Constitutional Convention of 1849, and quoting from Gwin's own address, advocating freedom and not slavery. But 1859 was ten years later. Men change, and perhaps with reason, in a much shorter period. Broderick also attacked several schemes which contemplated the expenditure of federal funds in California as improper and extravagant. Gwin was their author and defender. One has only to glance over the Senate proceedings to clearly observe the tempered rancor and augmenting irritation between the two senators.

Gwin was not absent at this session as at the last. The country was fast drifting on the rocks, and he was one of the pilots directing its dangerous course to destruction; alert, active, adroit. Broderick was beset on every side. There was nothing he wanted that he could have. Everything he opposed succeeded. In one debate six of the enemy confronted him, each one of the six being a Southern senator. He stood alone with his back to the wall. Seward styled him openly "the brave young senator," but the Republicans were few and they did not comprehend the broadness of his intellect and the priceless value of his ser-

vices. They regarded him with pity mingled with respect; but he was a Democrat.

Douglas had been sorely wounded in his forum contest with Lincoln. His lifelong dream of the Presidency he saw was only a dream, and his lifelong friends were wandering from his side into the filmy fog of the future. He could only pray for Broderick, but could not, dared not battle by his side. Besides, Broderick went far. His steel-blue eyes, looking upwards at his father's monument, saw blood clouds encompassing the capital and the country. He had the clearest vision and intellect of any man in the Senate, and yet he was treated like a pariah; an outcast; taunted and baited until he began to doubt. Even his firm, rugged character quailed for a moment, and in his lonely environment he cried out: "If I have made a mistake here this evening I will try to correct it when I come here next winter if I should live so long and not resign in the meantime." Did these ominous, fateful expressions presage his doom? Did the memory of Ferguson cloud his mental vision? Did he know how his blood would be sought? Men do not talk of dying at thirty-nine without reasons. Yet there were gallant foes among those Southrons. Toombs and Benjamin were both chivalrous cavaliers, who would have rivalled the French at Fontenoy. While they assailed him often on national issues, on minor affairs

LOS ANGELES, 1857

affecting his own state they aided him. They seemed to take a grim delight in thwarting Gwin. It does not lie with me to censure the Southerners. The South was their country as the North was ours. They felt as Decatur said in his toast: "Our country, may she be always right; but our country, right or wrong."

Lee followed not the Confederacy, but his state. That was his country. It is true the cause was indefensible. Slaves could not exist in civilized communities. Even in semi-barbarous South America they had been manumitted. The proponents of slavery were warring against the inevitable, against the moving glacier of modern progress. But many a man fought in Southern ranks not for slavery, but for his state. It is all over now and the Union is stronger after the struggle, though those who glance over these pages may be appalled at the venom and ferocity with which some were pursued.

As a senator Broderick not only advocated the enfranchisement of labor, but stood for the homestead law; for the endowment of mechanical and agricultural colleges by Congress; for the construction of a railway from the Missouri River to the Pacific Ocean; for the prosecution of peculators in all departments of the government, and for general reform and retrenchment in public affairs. Among the special objects of his animadversions were cor-

rupt Indian agents; venal surveyors of public lands; jobbery by postmasters and the rascally revenue collectors of the administration, sparing not even Buchanan himself.

He left Washington, his birthplace, forever, on the adjournment of Congress in March, 1859. While conversing with friends at a hotel in New York he was wantonly insulted by two men,—unknown to him. On a repetition of the offense, Broderick, strong and active, struck them both severely with his cane. Subsequently it was learned that they were from New Orleans and of a certain standing.

The affair annoyed him, as it seemed premeditated, and he suspected a plot to force a duel. Was it not a forerunner of the future? In bidding farewell to a friend in New York, he said: "I don't know whether you will ever see me again."

In this gloomy mood he returned home, via Panama, to find political chaos reigning in California. There was no question of his position. He was clearly opposed to all the dominant elements, both in Washington and at home. He was hardly a Democrat; he was not yet a Republican, and there was no half-way house. He was in that anomalous position of men who doubt the old, but still are not quite ready for the vigorous embrace of the exuberant young. He could not, would not, deny his antagonism to Buchanan and Southern dogmas, and yet dared he desert the Democratic party?

Where would he go? The Republican organization was his natural home, for in that which caused its birth and growth—opposition to slavery—he was one of the most early and ardent advocates. In effect, each state and government official was Southern by birth or sentiment. It was said that of an hundred and fifty federal officeholders stationed in San Francisco, all but five sprang from south of Mason and Dixon's line. Which, of course, was both unjust and imprudent, for it carried reflection and irritation to Northern men. By now, indeed, the cleavage was pronounced and the two factions were ranging in ranks. Only the Democrats could not yet forget the fetich of the name under which as talisman they had ruled the land these many years. Hence Northern Democrats were dissatisfied and discontented, yet knew not where to go nor why.

Nevertheless, the rupture was complete. On the question of the Lecompton constitution, the Democrats divided, formed two state conventions and nominated two complete state tickets. The federal and state governments combined in favor of the Lecompton constitution and were undoubtedly the regular Democratic organization, and as such carried the votes of those whom I have indicated, as well as of the timid, who deprecated change and confusion. They were not seers nor Cassandras and could not penetrate the future. On his

side Broderick selected as candidate for governor a Republican.

He was too sagacious not to know he could not win without their aid and probably not with them, for he, better than any man in the state, fathomed the depth, solidity and discipline of the battle line which he confronted. Doubtless he hoped for fusion, and Horace Greeley, one of the earliest and foremost Republicans, then on a visit to the coast, openly advised the California Republicans to coalesce with Broderick and his Democratic adherents.

But the California Republicans declined, perhaps feeling with Pompey that more people worshipped the rising than the setting sun. Still the sentiment between the new birth and the anti-Lecomptonites was cordial. Baker, the Republican nominee for Congress, and Broderick became close and intimate associates. They were of the same stamp and type, men who led multitudes and founded states.

For the first time Broderick canvassed the state addressing the people. Very likely his sojourn in the Senate and contact with ready and fluent orators had furnished him with courage and a certain aptitude. He spoke frequently in a clear, sonorous voice, distinctly heard. His enunciation was deliberate and his elocution good. He seldom ges-

ticulated and never played cadence with his sentences—the orator's charm.

Not a jest, not a smile, but intensely resolved, grand, gloomy and peculiar, as Shiel said of Napoleon. He accused Gwin of several public transactions as senator, which were prompted by venal motives; he delved into details on these matters; challenged Gwin to a public debate before the populace, and summed up his sins and crimes with the phrase "dripping with corruption."

Gwin, who was also active in the campaign, replied with vigor and ascerbity, and the conflict became bitterly personal and acrimonious. Latham, who had been a candidate for senator when Broderick and Gwin were elected and who was now the Lecompton nominee for governor, made a second antagonist of Broderick. He was of the North with Southern prejudices and predilections, and supported Gwin, for therein lay advancement, but he was neither loved by the one nor hated by the other to a pernicious degree.

The senatorial election of 1857 was one of the principal topics, and Latham was involved only to a less degree than Gwin. The difference was that Gwin gave Broderick a written letter of renunciation and abdication of the government patronage, and Latham did not, though he had been quite willing. Broderick had carefully refrained from informing the people of this extremely humble and

abject paper. He was not of a forgiving or magnanimous nature, but his party creed and faith had been deep and constant, and he knew the revelation would never be forgiven.

Now, however, he himself had left Democracy and was drifting on the political waters, farther and farther from the old shores and nearer and nearer to the new, from whence shone the light of Republicanism that was to save the republic.

Besides, he felt that Gwin deserved no sympathy for his turpitude in continuing to advise Buchanan, as if no such damning document existed. So, in August, at a meeting under the pines and the stars at Shasta, he said:

"I now return to Gwin, and I shall be brief. I will give you the copy of the letter that I believe led to the death of W. L. Ferguson. Do you believe it was for nothing that Ferguson's desk in the Senate chamber was broken open immediately after his decease? On his deathbed Ferguson told General Estill where he could find the letter. A curse has followed that letter, and I now give it to the public that the curse may return to its author—that its disgrace and shame may burn the brand upon his forehead even as plainly, as palpably as the scarlet letter burned upon the breast of Hester Pryn! Let Dr. Gwin or any of his set deny its authority and I will prove that he wrote it, letter for letter, column for column."

He then read the instrument which appears on an earlier page of this volume.

Gwin, in his reply a few days later at Yreka, said that Broderick was "a cowardly liar. He will slander and lie upon me—it is his vocation and has been that of his minions for years, but I will survive it now as I have heretofore. The more he abuses me the more firmly I will hold the confidence of my constituents. This is strong language, but I intend it to be so. Broderick is to be here in a short time and I wish him to understand it." These words with their direct implication and application conveyed a clear significance that was universally understood and accepted. In the same address he refers almost humorously to the penalties of patronage in language that I heard re-echoed by another senator forty years afterwards. Gwin said:

"The first five years of my term I had no trouble on the subject of executive patronage as it was a Whig reign. I made no complaint. But when Pierce came in and new officers had to be appointed all the officeseekers flocked to Washington. I among others was beset by them. You can form no idea of the manner in which they urged their claims. There was about five for every office. They interrupted me in the senate chamber, and I was not safe in my own home from their pursuit. I never got up to eat my breakfast but my eyes were

greeted with the sight of them. The result was that I came to the determination never to have anything to do with the dispensing of office if I remained in the senate.

"For Collector of the Port of San Francisco, under Pierce, there were two prominent candidates —Marshall and another. The President informed me that if I would commend Marshall he would appoint him, otherwise, from personal feelings, he would give the appointment to the other, Latham. I declined signing Marshall's paper. He came home the worst enemy I had.

"With all the talent he is known to possess, by articles signed 'Interior,' attacking me, etc., he proved the bitterest foe I ever had. The gentleman appointed to the office is at present one of my enemies."

CHAPTER XI

PROVOCATION

David S. Terry came to California from Texas in 1849 and located in Stockton. He volunteered in the United States service from Texas during the Mexican War in 1846 and served throughout as one of a company of mounted rangers. Their principal function was to repel Mexican and Indian incursions from the borders, where helpless families and small hamlets lay unprotected.

As a mounted soldier he acquitted himself creditably and with courage. The war ended in 1848, and young Terry became an advocate. The next year he followed the hejira toward the West that came from all quarters of the globe, and crossed the plains to California. A year or two later he returned to Texas, married, and brought his bride to Stockton, which became their permanent residence. He was always an active Democrat in state politics, conventions and in the local politics of his county.

He was a strong opponent of Broderick in the convention of 1854, which assembled in the Sacramento church and nearly ended its deliberations in a sanguinary battle. Subsequently he deserted

the Democratic organization and espoused the Native American party. During its meteoric and ephemeral career he was elected in 1855 as associate justice of the Supreme Court of California and took office the first of the ensuing year. Some time thereafter Chief Justice Murray died and Terry was appointed by the governor his successor.

In the summer of 1856, only a few months after his elevation and before the demise of Murray, he stabbed one of the Vigilante officers in San Francisco for which he was tried and released by the committee after an imprisonment of several weeks.

A year later Stephen J. Field was chosen to fill the vacancy on the supreme bench caused by the elevation of Terry to the chief justiceship. His tenure of office terminated in three years; that is at the end of 1859.

Elected as a Know-Nothing, Terry, like many others, had abandoned this organization and became once again a Democrat. Always an extreme partisan the bitter feud raging between the two wings of the party had found in the Texan an ardent response, and his Southern slavery antecedents and proclivities naturally ranked him with that element.

After his dangerous experiment with the Vigilantes in 1856 he remembered and conserved the dignity demanded of his station and exercised his judicial functions with justice and honor.

Three years later he was a candidate before the Lecompton convention to succeed himself. But the delegates chose another contestant. The same evening, at Sacramento, after his defeat, he came before the convention and delivered a vehement address. The subjoined is a part of his speech:

"What other? A miserable remnant of a faction sailing under false colors trying to obtain votes under false pretenses. They have no distinction they are entitled to. They are the followers of one man, the personal chattels of a single individual, whom they are ashamed of; they belong heart and soul, body and breeches, to David C. Broderick.

"They are yet ashamed to acknowledge their master, and are calling themselves, forsooth, Douglas Democrats, when it is known to them, as to us, that the gallant senator from Illinois, whose voice has always been heard in the advocacy of Democratic principles, has no affiliation with them, no feeling in common with them.

"Perhaps, Mr. President and gentlemen, I am mistaken in denying their rights to claim Douglas as their leader; but it is the banner of the Black Douglas, whose name is Frederick, not Stephen."

These were the words of the chief justice of the state, delivered after three years of silence, before a body of delegates who had just defeated his aspirations, so that no epithets, however violent, could have altered their declared resolve.

Even today, when we are very tolerant and philosophical toward political animadversions, such a diatribe would be indignantly resented; still more so in the years of which I write. Every man of distinction was careful of his language, public and private; people would fight for a pin and their "honor" was, of course, a more valuable commodity.

Terry, in his letter to the Vigilantes, said: "One of the first lessons I learned was to avoid giving an insult, and to allow none to be given to me. I have acted and expect to act on this principle. I believe no man has a right to outrage the feelings of another, or attempt to blast his good name without being responsible for his actions."

If Terry thought others felt like himself he must have expected recognition. On the morning of the 27th of June Broderick, while at the breakfast table of the International Hotel in San Francisco, read in a journal the address of Terry, delivered in Sacramento two days previously. He became angry and disturbed and spoke to a friend at the table, the company including several ladies. He observed that while Terry was incarcerated by the Vigilance Committee he had paid $200 a week to support a newspaper to defend him, and added: "I have said that I considered him the only honest man on the supreme bench, but I now take it all back." Mr. D. W. Perley, by a coincidence,

was breakfasting in the room and heard Broderick. Perley, though not an American citizen, had been a legal colleague of Terry until the latter's accession to the Supreme Court. Years previously Terry had seconded Perley in a duel, and Perley, in the trial of Terry before the Vigilance Committee, had given strong and insistent evidence in favor of Terry's personal character and integrity. Hence he was an old and intimate friend, though his professional and personal standing had somewhat lessened since Terry was no longer his associate. He asked Broderick if he meant Terry, and being answered "yes," at once resented the words used by Broderick, who cut him short with some curt remarks that Perley deemed personally offensive. He sent a challenge to Broderick, which the latter declined, giving his reasons in a somewhat lengthy epistle, from which I quote:

"For many years and up to the time of my elevation to the position I now occupy it was well known that I would not have avoided any issue of the character proposed. If compelled to accept a challenge it could only be with a gentleman holding a position equally elevated and responsible; and there are no circumstances which could induce me even to do this during the pending of the present canvass. When I authorized the announcement that I would address the people of California during the campaign it was suggested that efforts

would be made to force me into difficulties, and I determined to take no notice of attacks from any source during the canvass. There are probably many other gentlemen who would seek similar opportunities for hostile meetings for the purpose of accomplishing a political object or to obtain public notoriety.

"I cannot afford at the present time to descend to a violation of the constitution and the state laws to subserve either their or your purposes."

A few days later one of the city press adverting to the subject remarked: "For refusing to fight a duel under the circumstances, the large mass of the people will honor D. C. Broderick. The belief is quite general that there are certain political opponents of his who long for a chance to shoot him, either in a fair or unfair fight, and that efforts would be made sooner or later to involve him in a personal difficulty. It is wisdom on his part to avoid the traps set for him and thus defeat all the plans of those in whose path he happens to just now stand. His seat in the Senate would be quite acceptable to a number of gentlemen in the state. The people of California ought to manifest in a manner not to be mistaken, their approval of the conduct of a public man who exhibits courage to refuse upon any ground to accept a challenge."

All this in a most matter-of-fact way, as if hunting the life of a senator of the United States was

not an unusual and customary proceeding! And Broderick also refers to this assumption in his letter above. It seems to have been in the air, on everyone's lips, in every gathering, that this man was to be followed and shot like a wild beast!

Over two months afterwards, on Wednesday, the 7th of September, occurred the election and, during this period Terry said never a word. His only public address in three years was the one from which I have given the excerpt attacking Broderick. Broderick emerged from the contest dispirited, defeated, in ill-health, which had clung to him for months, and should have gone to a sanitarium. He had just ended the most severe and trying canvass within the memory of Californians, concentrating in his own person the abuse, calumny and vituperation of his triumphant adversaries. Mark now how events followed fast and followed faster. The election was on the 7th of September. That very day Terry forwarded to the governor his written resignation as Chief Justice of the Supreme Court of the state of California. His duration of the office expired with the year. He left Sacramento immediately, journeyed direct to Oakland and at once sent to Broderick the subjoined communication:

"Oakland, September 8, 1859.

"Hon. D. C. Broderick, Sir: Some two months since, at the public table in the International Hotel

in San Francisco, you saw fit to indulge in certain remarks concerning me, which were offensive in their nature. Before I had heard of the circumstance your note of 29th of June, addressed to Mr. D. W. Perley, in which you declared that you would not respond to any call of a personal character during the political canvass just concluded, had been published.

"I have, therefore, not been permitted to take any notice of these remarks until the expiration of the limit fixed by yourself. I now take the earliest opportunity to require of you a retraction of those remarks. This note will be handed you by my friend, Calhoun Benham, Esq., who is acquainted with its contents and will receive your reply.

"D. S. TERRY."

Benham sought out Broderick, gave him the letter and requested an immediate response. Broderick said he would answer the day following, but Benham asked for a reply directly and it was so agreed.

The reply follows:

"San Francisco, September 8, 1859.

"Hon. D. S. Terry, Sir: Your note of September 8th reached me through the hands of Mr. Calhoun Benham. The remarks used by me in the conversation referred to may be a subject of future misrepresentation; and for obvious reasons I have

to desire you to state what were the remarks that you designate in your note as offensive, and of which you require of me a retraction.

"I remain, etc.,

"D. C. BRODERICK."

This is Terry's answer:

"San Francisco, September 9th, 1859.

"Hon D. C. Broderick, Sir: In reply to your note of this date I have to say that the offensive remarks to which I alluded in my communication of yesterday are as follows: 'I have hitherto considered and spoken of him (myself) as the only honest man on the Supreme Court bench; but I now take it all back,' thus by implication reflecting on my personal and official integrity. This is the substance of your remarks as reported to me; the precise terms, however, in which such an implication was conveyed are not important to the question.

"You yourself can best remember the terms in which you spoke of me on the occasion referred to. What I require is the retraction of any words which were calculated to reflect on my character as an official or a gentleman.

"I remain, your obedient servant,

"D. S. TERRY."

"Friday evening, September 9th.

"Hon. D. S. Terry—Yours of this date has been received. The remarks made by me were occa-

sioned by certain offensive allusions of yours concerning me made in the convention at Sacramento, reported in the *Union* of June 25th. Upon the topic alluded to in your note of this date my language so far as my recollection serves me, was as follows: 'During Judge Terry's incarceration by the Vigilance Committee I paid $200 a week to support a newspaper in his (yours) defense.' I have also stated heretofore that I considered him (Judge Terry) the only honest man on the supreme bench, but I take it all back. You are the best judge as to whether this language affords good ground for offense.

"I remain, etc.,

"D. C. Broderick."

"San Francisco, September 9th, 1859.

"Hon. D. C. Broderick, Sir: Some months ago you used language concerning me offensive in its nature. I waited the lapse of a period of time fixed by yourself before I asked reparation therefor at your hands. You replied, asking specifications of the language used which I regarded as offensive. In another letter I gave you the specification and reiterated my demand for a retraction. To this last letter you reply, acknowledging the use of the offensive language imputed to you and not making the retraction required. This course on your part leaves me no other alternative but to

demand the satisfaction usual among gentlemen, which I accordingly do. Mr. Benham will make the necessary arrangements.

"Your obedient servant,

"D. S. TERRY."

"San Francisco, September 10th, 1859.

"Hon. D. S. Terry, Sir: Your note of the above date has been received at 1 o'clock A. M., September 10th.

"In response to the same I will refer you to my friend, Hon. J. C. McKibben, who will make the necessary arrangements demanded in your letter.

"I remain, etc.,

"D. C. BRODERICK."

The super-serviceable friends of Broderick, in obedience to Benham's behest, repaired to Haskell's house at Black Point, a mile and a half distant, awoke the wearied and harassed man at dead of night and brought him to the city to be presented by Benham with a cartel challenging and threatening his life. This was only the beginning of blunders.

Directly afterwards, the same Saturday, the commissioners on both sides met and drew articles. On reading them one would conclude that they applied to a treaty or conference on high legislation between puissant nations, so lengthy were the written preliminaries. They prepared to slaughter each other in those days with dignity and decorum.

One change was made from the ordinary procedure in duels. The word "three" was omitted, it being agreed that the contestants should shoot between the words "fire—one, two." This alteration was insisted upon by Broderick's seconds. He was supposed to be a quicker and more accurate shot than Terry; besides, for humanity's sake, the shorter the period to aim and fire, the less the danger. Broderick was reputed one of the best shots in the state, while Terry's reputation had been made with the knife and not the pistol. But if two men will separate ten steps and face each other, holding the duelling pistols of the fifties, with long barrels that shoot like rifles, they will realize how murderously short the space, and how difficult to miss a man.

It was also provided in the articles that the choice of weapons and position should be determined by chance on the ground which was selected and described, and that the time should be 5:30 A. M., the following Monday morning.

Broderick occupied Saturday and Sunday in settling his personal affairs and, it is said, in drawing his last testament. He was under no delusion. He was aware that his life was in great danger, that the crisis had arrived which he foresaw, when on leaving New York the last time he mournfully said to one of his friends who accompanied him to the departing steamer: "Good-bye. You may

SAN FRANCISCO, 1859

never see me again." Rumors of the impending meeting abounded and he was constantly beset by people who besought particulars. Duelling was like attending the theatre; there were always spectators.

On Monday morning early the actors and spectators, numbering several score, were on the ground, but presently there appeared the sheriff who placed the duellists under arrest. Being about to break the law they first obeyed the law—"I kissed her ere I killed her."

During the day their respective counsel appeared before the justice, and he decided no breach of the peace had been committed. Of course not, hence the law could not interfere until some one was shot or slain!

All Monday afternoon and early eve Broderick was intensely preoccupied with the many urgent questions that the campaign had left unanswered, and arrangements for another meeting were left entirely to his seconds. These were cool, brave men. McKibben was an ex-Congressman. Colton, the other, had been sheriff of Siskiyou County and, almost single-handed, had quelled a miners' mob. But they had had no experience in the scientific art of shooting in cold blood. They had never participated in duels, either as principals or seconds, and they did not know that a man should be groomed for one like a horse for a race.

It was decided that the second meeting should be next morning, at about the same time and place. This compact was concluded late on Monday. The distance from the city was nearly ten miles, over a rough and hilly road.

CHAPTER XII

THE DUEL

The pistols were the Láfoucheux type, a well known Belgian make, and had been brought to California by a French creole named Beard. They represented the most approved European duelling pattern, with barrels twelve inches in length, but the stock or breech construction was different from that of ordinary American duelling pistols. Every nation has its idiosyncracies.

Hence the man who had never handled them nor adjusted the stock to his hand would be certainly at a disadvantage. They had been well tried in a code function two years earlier, between two Californians named Ryer and Langdon. Langdon, who was challenged and won choice of weapons, selected this pair and also the one he preferred. Both men practiced with the respective pistols allotted to them the day before the duel. Dr. Ryer, in firing the one assigned to him, discovered the hair trigger was so light and delicate that the pistol would be discharged on a sudden jar or motion, without touching the trigger. Even thus forewarned of this eccentric characteristic he was unable upon the field to fully guard against the

defect, and on the first two exchanges with his antagonist his bullets entered the ground directly in front. On the third round he succeeded in elevating it to his adversary's knee before it was discharged. The bullet struck the knee and stopped the duel, but Ryer stated that the bullets from Langdon's weapon whizzed unpleasantly past his ear, clearly evidencing that the other pistol was not similarly affected.

This pair of pistols had passed into the possession of Dr. Aylette of Stockton, and were known as the "Aylette pistols." Dr. Aylette was Terry's intimate friend and would have been with him at the duel had not the postponement sent him home to Stockton.

Ex-Lieutenant Governor Daggett has written me a letter from which the annexed is an excerpt:

"I had a talk with Senator Langford some years ago, who was a life-long friend of Terry's and, as I believe you know, a reliable and truthful man. Ben, much to my surprise, related to me the fact that when the duel was decided upon, Terry came to his house in Lodi for advice, and together they went to Dr. Aylette in Stockton, who had pistols and was authority upon such matters.

"They all went out to the doctor's barn to practice, and Ben said Terry never had carried a pistol—always depended upon his knife—and at his first attempts to fire at the words 'one, two, three,'

he could not hit the side of a barn, while Aylette would hit the size of a man every time. Of course he subsequently learned."

Senator Langford was one of my associates, representing Stockton in the State Senate of California in 1885, while Daggett was lieutenant-governor and presiding officer of the Senate.

Judge Terry was a frequent visitor to the Senate chamber, and Langford made us acquainted. I had several conferences with Terry and assisted in the passage of a measure that he strongly favored. My conception of him was that of an upright and capable gentleman. He was of massive build, dignified mien, and demanded consideration. The shadows of the past seemed to cluster around his form, for he rarely smiled and was stoically silent.

In my researches of his career while a jurist I can find no reproaches by any one as to the character or the justice of his decisions.

It would appear from this statement of Langford that Terry practiced with these "Aylette" pistols more than once, and it follows that he must perforce have become cognizant of the "tricky" defect or fault in one of them. As the duel occurred over two months after his speech, which was the first cause, he had ample time to perfect himself in the use of the pistols and deliberately make all other personal arrangements,

contemplating without doubt that the meeting must come.

During this same period, Broderick was the leader and, therefore, the active participant in a harassing, acrimonious, fatiguing campaign, from which he emerged with shattered spirits, depleted health and exhausted body, to be instantly presented with a sinister note and finally a deadly cartel, all within three days after the election, when he should have been resting and recovering from the struggle. It has been stated that he had contracted pneumonia near the end of the canvass but for this I can find no positive authority.

Monday night, Colton and McKibben, with a surgeon and Broderick, entered a carriage and were driven out to the Lake House, a little inn on the old Mission Road, some two miles from the sea, and the same distance north and west of the rendezvous. The small habitation was almost untenanted, and low cots with scant covering constituted the sleeping accommodations. It was infested with sand fleas and no one closed an eyelid. In the raw and foggy morning they arose unrefreshed, and without a stimulant of any kind, not even a drop of coffee, the quartette, mounting the vehicle, drove to the spot where they descried Terry and his party. The latter had also passed the night in the vicinity, but it was in a comfortable farm house hard by,

where he was furnished with a good bed and a warm substantial breakfast when he arose.

A group of men who had arrived on foot, on horseback and in carriages, stood at a distance on a knoll, like Romans viewing the gladiators in the Coliseum. They numbered some three score, and had left the city after midnight for the picnic ground. Broderick and Terry did not salute each other but stood apart conversing with friends. A city gunsmith had brought a pair of pistols, which had never been fired by either opponent. Broderick's people brought none, while Terry's carried the "Aylette" pistols. The seconds of Broderick won the position and the giving of the words, but Terry's won a far more important point, the selection of weapons. Of course they choose their own, and why not? Does one go to battle with one's own or with the enemy's arms? When our lives are in jeopardy would we not fight with our own sword, and shoot with our own pistol, which we know and have used rather than with one that we do not know and had not used?

Broderick had no favorite arms. He had discarded pistols since his election to the Senate, if not before, and, though reported a dead shot, had not handled a pistol for months. The "Aylettes" having been chosen, the next thing was to decide between the two as set down in number eight of the

articles—"Choice of the two weapons to be determined by chance as in Article Seven."

McKibben, one of Broderick's seconds, snapped a cap on one of the pistols and was satisfied. He did not snap a cap on the second as he should have done, and I can find no evidence as to which one he thus tested. Then Terry's seconds took one of the pistols and the other remained for Broderick. Thus Article Eight—tossing for choice of pistols—was not fulfilled, nor did the seconds of Broderick so demand.

After being thus allotted, the arms were submitted to the gunsmith for examination. He made a careful inspection and pronounced them in good order, except that they were light and delicate on the triggers, and he also informed one of Terry's seconds that the one intended for Broderick was lighter on the trigger than the other. The armorer, Legardo, so testified at the inquest over Broderick's dead body, and he added that the pistol for Broderick was so delicate that it would explode by a sudden jar or movement. This evidence was not contradicted. Colton and McKibben stated in a public letter the day after the duel, and before Broderick's death, that had they known one of the weapons was lighter on the trigger than the other they would not have permitted the duel. Why did they not know? Did they ask,

and if they had asked, would they not have been told the verity at once?

The day after, on his death bed, Broderick said that he did not touch the trigger of the pistol as he raised it, but that the sudden movement in elevating his arm from the vertical position caused the weapon to explode and the bullet plunged into the ground.

While this prologue to the tragedy was passing, Broderick stood apart with Elliott J. Moore. He had been calm and collected, but when he was apprised that Terry's seconds had won the choice and saw the pistols, he complained to Moore of the inefficiency of his seconds and said they were no match for those of his adversary. He spoke of them as children and expressed apprehension lest they might unwittingly "trade away his life."

The pistols were loaded, Broderick's by the armorer and Terry's by S. H. Brooks, one of his faithful friends. The ten paces were measured and white marks placed to establish the distance. The men were told to take their stations.

Up to now Terry seemed agitated and measured the space with an uneasy and an anxious glance. Benham approached Terry and whispered. Terry faintly smiled, became calm, and thereafter was as cold and impassive as the marble statue of El Comendador. Did the whispering cadence breathe aught of the pistol?

In accord with the nominal rule, both men were searched by a second of the other. McKibben merely touched Terry's breast, but Benham manipulated his hands up and down Broderick's person, as if he might discover a coat of mail. Broderick said to a friend near by that Benham had treated him "as an officer with a search warrant would search a thief for stolen property." Six years before, in his duel with Smith, a bullet from Smith's pistol had shattered a watch in Broderick's fob pocket. After his death this broken jewel was found in his safe. Perhaps the memory of this episode caused Benham's rigourousness; but it was an ominous reminiscence for Broderick. Long after Benham acknowledged that he was not courteous, but said his principal's life being in danger, he was bound to do whatever was possible to protect him.

But why did Broderick's seconds permit this unusual and irritating personal examination? It angered and annoyed their principal, when, if ever, his calmness should not be disturbed. For many persons the indignity would have sufficed to adjourn the combat. Men's lives are lost by actions much less trivial.

The loaded pistols were handed to the duellists and they faced each other, Terry, straight backed, wan and attenuated. Broderick, equally tall, but broader and heavier. The latter, on receiving his weapon, anxiously examined and turned it about,

scrutinizing and measuring its stock with his own hand. He seemed uneasy, adjusting his hand to the conformation of the breech and presenting an unsatisfied appearance. These efforts caused him to swerve from the line, and in response to Benham's suggestion, one of his perennially gentlemanly seconds spoke to him. He changed his attitude, but his body slightly projected and offered a fairer mark. Duellists stand with their sides facing one another, head and feet in vertical plane, so that no part of the body shall be unduly exposed. He stood with his back to the rising sun, driving over the distant sea the dark and dismal fogs slowly emerging from the bleak, somber slopes and cañons, where they had wandered to and fro in the restless night. The white surf of the broad Pacific rose in vapory laced veils, enveloping the fleeing fog in its snowy embrace, and leaping as if with ardent steps to greet the coming orb.

Fronting the ocean like himself was California, that California on which he stood and to whose fame and future he had consecrated his hopes, all his energy and devotion—California with her mountains and valleys, her glens, where the gold grew, and her hills crested with gigantic trees towering to the stars and coeval with recorded life. With troubled mien he turned to the pistol, which was of a type he had never used and had hardly

ever seen. He was too discerning not to instantly realize his disadvantage, and with nervous motions continued to adjust the stock which did not seem to fit his hand. Even after the words had been "exemplified" by Colton and repeated by Benham he did not cease to labor at the weapon.

Presently Colton said, "Gentlemen, are you ready?" Terry, who had stood immovable and imperturbable since the whispering, directly replied, "Ready." Broderick, who wore a soft black hat, pulled down low over his forehead, still fingered the intractable arm, and it was four or five seconds after Terry's response that, with a nod to Colton, he also answered "Ready."

The duellists held their pistols vertically to the side, with the muzzles pointing downward. Colton said, after a moment's interval, "Fire—one—two—" like the measured strokes of a cathedral clock. Broderick fired as "one" was pronounced, and Terry at "two." Broderick's bullet struck the earth midway between himself and his adversary. Terry's shot entered Broderick's body about an inch and a half above the right breast, penetrating the lung. Broderick swerved, staggered and gradually dropped on his left side until his left shoulder rested on the sward, the useless pistol dropping from his nerveless grasp. He told Baker on his death couch between gasps and with the blood gushing from his breast, "Baker, when I

HOUSE IN WHICH BRODERICK DIED

was struck I tried to stand firm, but the blow blinded me and I could not."

After Broderick's fall, Benham walked to Terry, who instantly said, "The wound is not mortal. I have hit two inches too far out." From a man who was presumed not to know how to shoot, this revelation of expert knowledge and confidence is marvelous. The physician who accompanied Broderick's party, carried a small bag of surgical instruments, from which a saw protruded, as if he were going to hospital after a battle. He lost his head, became confused, and not until the other doctor came forward was anything done to relieve the stricken man's anguish.

A carriage and mattress were brought and Broderick was conveyed ten miles to Black Point and placed in the mansion of Leonidas Haskell. The same residence in which he had been aroused at midnight three days before to receive the challenge. Chloroform was administered which, by affecting his nervous system, strung to the utmost tension in the three days' harassing anxiety preceding the combat, deadened the excruciating agony. Before the contest he expressed the resolve not to shoot Terry above the hips, as he considered that he had no quarrel with him. That is thought to be the reason why he pulled the black sombrero so low over his brow.

In delirium he recalled this determination and

the conviction that he was to be hunted until killed. He talked ramblingly of the election defeat; of those great principles for which he had striven; of the fact that he had been deserted by the people, and that he was to be silenced. "They have killed me because I was opposed to a corrupt administration and the extension of slavery."

The sentiment of the startled and horrified community is perhaps shown in an editorial in one of the city papers the day after the duel and while Life and Death grappled over his prostrate form. It said: "What has this man done that he should be hunted and abused? Wherein was his great offense against the land or the Nation? What law of morality or religion did he violate? What treason did he commit against his country? What widow did he wrong—what orphan did he defraud? What act of his in an official capacity ever stained his hand? What was his crime?" Broderick's final expression, as he lapsed into death's lethargy, was: "I die; protect my honor."

He was shot Tuesday morning and died Friday morning, September 16, 1859. The intelligence, like all doleful tidings, spread like a pestilence. People refused to credit that which their hearts dreaded—that he had been thus slain in the very morning of his career; that his sun had set while it was yet day. But the conviction, the sad con-

viction, was verity. Men's hearts sank; eyes were moistened by tears which the sternest pride of manhood could not repress, and voices were hushed to earnest whisperings. They left their daily vocations and gathered in groups discussing the one topic, some offering consolation, other generous tribute to the untimely dead. There was no concerted signal of woe, no set form or phase of sorrow; but gloom like a black mist crested the town and its expression was silence. There was no parade of mourning, no ostentatious grief. Men asked not what others did, nor did they care. Moved by the fullness of their individual sorrow, they suspended business, draped doors, and repaired slowly to their homes.

San Francisco had never such a day in its stormy existence. There are those living who yet recall the universal gloom. Meanwhile the dead senator was conveyed to the city and placed in a chamber of the Union Hotel, on the corner of Merchant and Kearny streets, to be viewed by all those who venerated martyrs.

On Sunday afternoon the body was removed opposite, to the Plaza, deposited on a catafalque, and without music, banners, religion, organizations or chairman, but in the presence of the dead and of thirty thousand silent, living men, Colonel Baker pronounced a discourse almost unrivalled in English literature.

The Monte Diablo range to the east, recalling the Alban Hills; the sparkling September sun, scarce equalled by Italia's brilliant sunshine; the seven hills of San Francisco, like the seven hills of Rome —the first towering o'er the plaza where lay the stricken senator, while the others, looking over the forum, on the mangled body of the first of the Caesars—surely, to the modern Antony, who lived and died as did his ancient prototype, the parallel must have occurred when he exclaims:

"What hopes are buried with him in the grave."

He sleeps at the base of Lone Mountain, itself as lonely as he, where, facing the lordly Pacific, he lies, a pathetic and memorable sacrifice to the minotaur of human slavery.

APPENDIX

David S. Terry was indicted for his duel with Broderick, as it contravened the State laws. The case was transferred to another county and there dismissed. During the Civil War he joined the Confederate forces, was wounded at the battle of Chickamauga, and attained the rank of Brigadier General.

At the close of the conflict he repaired to Mexico, but returned to California in 1869, and, locating again at Stockton, resumed the practice of the legal profession.

Some years later he became advocate for a lady who was one of the principals in a noted divorce suit. Subsequently they were espoused. Legal contentions arising from the first marriage caused her to appear before the Circuit Court held in Oakland, over which Stephen J. Field, Associate Justice of the United States Supreme Court, presided.

In open court the Justice proceeded to read the decision. As he continued, the tenor was manifestly unfavorable to Mrs. Terry's claims. She suddenly arose and interrupted the reading by violently upbraiding and denouncing Field. He ordered her removal from the judicial chamber. She resisted, and Terry, coming to his wife's assistance, drew a knife and assaulted the bailiffs. He was disarmed, both parties secured, and the Court of three judges sentenced Mrs. Terry to one month and her husband to six months' imprisonment, which they served in full.

Justice Field returned to Washington, and the next year, in fulfillment of his official requirements, came again to California. He had been informed that Terry uttered threats of violence against his person, and therefore he

was accompanied by a man employed by the Government to act in the capacity of guard.

On their journey from Los Angeles to San Francisco, Field and his companion, with other passengers, left the train to lunch at a small hamlet named Lathrop. Terry and his wife, who had boarded the cars en route, also descended and shortly afterward entered the same restaurant. A few minutes later, Terry arose from his seat, walked directly back of Field and slapped or struck the venerable justice on the face, while he was yet seated. Neagle, the guard who attended Field, leaped to his feet and shot Terry twice, who fell and died instantly.

This event occurred on the 15th of August, 1889, not quite thirty years from the day when Terry shot Broderick.

ORATION BY

COL. E. D. BAKER

DELIVERED OVER THE DEAD BODY OF DAVID C. BRODERICK, AT PORTSMOUTH SQUARE, SAN FRANCISCO, ON THE 18th OF SEPTEMBER, 1859.

Citizens of California:

A Senator lies dead in our midst! He is wrapped in a bloody shroud, and we, to whom his toils and cares were given, are about to bear him to the place appointed for all the living. It is not fit that such a man should pass to the tomb unheralded; it is not fit that such a life should steal unnoticed to its close; it is not fit that such a death should call forth no rebuke, or be followed by no public lamentation. It is this conviction which impels the gathering of this assemblage. We are here of every station and pursuit, of every creed and character, each in his capacity of citizen, to swell the mournful tribute which the majesty of the people offers to the unreplying dead. He lies today surrounded by little of funeral pomp. No banners droop above the bier, no melancholy music floats upon the reluctant air. The hopes of high-hearted friends droop like fading flowers upon his breast, and the struggling sigh compels the tear in eyes that seldom weep. Around him are those who have known him best and loved him longest; who have shared the triumph, and endured the defeat. Near him are the gravest and noblest of the State, possessed by a grief at once earnest and sincere; while beyond, the masses of the people whom he loved, and for whom his life was given, gather like a thunder-cloud of swelling and indignant grief.

In such a presence, fellow-citizens, let us linger for a

moment at the portals of the tomb, whose shadowy arches vibrate to the public heart, to speak a few brief words of the man, of his life, and of his death.

Mr. Broderick was born in the District of Columbia, in 1819. He was of Irish descent, and of obscure and respectable parentage; he had little of early advantages, and never summoned to his aid a complete and finished education. His boyhood and his early manhood were passed in the City of New York, and the loss of his father early stimulated him to the efforts which maintained his surviving mother and brother, and served also to fix and form his character even in his boyhood. His love for his mother was his first and most distinctive trait of character, and when his brother died—an early and sudden death—the shock gave a serious and reflective cast to his habits and his thoughts, which marked them to the last hour of his life.

He was always filled with pride, and energy, and ambition—his pride was in the manliness and force of his character, and no man had more reason than he for such pride. His energy was manifest in the most resolute struggles with poverty and obscurity, and his ambition impelled him to seek a foremost place in the great race for honorable power.

Up to the time of his arrival in California, his life had been passed amid events incident to such a character. Fearless, self-reliant, open in his enmities, warm in his friendships, wedded to his opinions, and marching directly to his purpose through and over all opposition, his career was checkered with success and defeat: but even in defeat his energies were strengthened and his character developed. When he reached these shores, his keen observation taught him at once that he trod a broad field, and that a higher career was before him. He had no false pride: sprung from a people and of a race whose vocation was labor, he toiled with his own hands, and sprang at a bound from the workshop to the legislative hall. From that time there congre-

gated around him and against him the elements of success and defeat—strong friendships, bitter enmities, high praise, malignant calumnies—but he trod with a free and a proud step that onward path which has led him to glory and the grave.

It would be idle for me, at this hour and in this place, to speak of all that history with unmitigated praise: it will be idle for his enemies hereafter to deny his claim to noble virtues and high purposes. When, in the Legislature, he boldly denounced the special legislation which is the curse of a new country, he proved his courage and his rectitude. When he opposed the various and sometimes successful schemes to strike out the salutary provisions of the Constitution which guarded free labor, he was true to all the better instincts of his life. When, prompted by ambition and the admiration of his friends, he first sought a seat in the Senate of the United States, he aimed by legitimate effort to attain the highest of all earthly positions, and failed with honor.

It is my duty to say that, in my judgment, when at a later period he sought to anticipate the Senatorial election, he committed an error which I think he lived to regret. It would have been a violation of the true principles of representative government, which no reason, public or private, could justify, and could never have met the permanent approval of good and wise men. Yet, while I say this over his bier, let me remind you of the temptation to such an error, of the plans and reasons which prompted it—of the many good purposes it was intended to effect. And if ambition, "the last infirmity of noble minds," led him for a moment from the better path, let me remind you how nobly he regained it.

It is impossible to speak within the limits of this address, of the events of that session of the Legislature at which he was elected to the Senate of the United States; but some

things should not be passed in silence here. The contest between him and the present Senator had been bitter and personal. He had triumphed. He had been wonderfully sustained by his friends, and stood confessedly "the first in honor and the first in place." He yielded to an appeal made to his magnanimity by his foe. If he judged unwisely, he has paid the forfeit well. Never in the history of political warfare has any public man been so pursued; never has malignity so exhausted itself.

Fellow-citizens! the man whose body lies before you was your Senator. From the moment of his election his character has been maligned, his motives attacked, his courage impeached, his patriotism assailed. It has been a system tending to one end: and the end is here. What was his crime? Review his history—consider his public acts—weigh his private character—and before the grave encloses him forever, judge between him and his enemies!

As a man—to be judged in his private relations—who was his superior? It was his boast, and amid the general license of a new country, it was a proud one, that his most scrutinizing enemy could fix no single act of immorality upon him! Temperate, decorous, self-restrained, he had passed through all the excitements of California, unstained. No man could charge him with broken faith or violated trust; of habits simple and inexpensive, he had no lust of gain. He overreached no man's weakness in a bargain, and withheld from no man his just dues. Never, in the history of the State, has there been a citizen who has borne public relations, more stainless in all respects than he.

But it is not by this standard he is to be judged. He was a public man, and his memory demands a public judgment. What was his public crime? The answer is in his own words: "*I die because I was opposed to a corrupt administration, and the extension of slavery.*" Fellow-cit-

izens, they are remarkable words, uttered at a very remarkable moment: they involve the history of his Senatorial career, and of its sad and bloody termination.

When Mr. Broderick entered the Senate, he had been elected at the beginning of a Presidential term as the friend of the President elect, having undoubtedly been one of his most influential supporters. There were unquestionably some things in the exercise of the appointing power which he could have wished otherwise; but he had every reason to remain with the Administration, which could be supposed to weigh with a man in his position. He had heartily maintained the doctrine of Popular Sovereignty, as set forth in the Cincinnati Platform, and he never wavered in his support till the day of his death. But when in his judgment the President betrayed his obligations to his party and country—when, in the whole series of acts in relation to Kansas, he proved recreant to his pledges and instructions—when the whole power of the Administration was brought to bear upon the legislative branch of the Government, in order to force Slavery upon an unwilling people—then, in the high performance of his duty as a Senator, he rebuked the Administration by his voice and his vote, and stood by his principles. It is true, he adopted no half-way measures. He threw the whole weight of his character into the ranks of the Opposition. He endeavored to arouse the people to an indignant sense of the iniquitous tyranny of federal power, and, kindling with the contest, became its fiercest and firmest opponent. Fellow-citizens, whatever may have been your political predilections, it is impossible to repress your admiration, as you review the conduct of the man who lies hushed in death before you. You read in his history a glorious imitation of the great popular leaders who have opposed the despotic influences of power in other lands, and in our own. When John Hampden died on Chalgrove field,

he sealed his devotion to popular liberty with his blood. The eloquence of Fox found the sources of its inspiration in his love for the people. When Senators conspired against Tiberius Gracchus, and the Tribune of the people fell beneath their daggers, it was power that prompted the crime and demanded the sacrifice. Who can doubt, if your Senator had surrendered his free thought, and bent in submission to the rule of the Administration—who can doubt that instead of resting on a bloody bier, he would have this day been reposing in the inglorious felicitude of Presidential sunshine?

Fellow-citizens, let no man suppose that the death of the eminent citizen of whom I speak was caused by any other reason than that to which his own words assign it. It has been long foreshadowed—it was predicted by his friends—it was threatened by his enemies: it was the consequence of intense political hatred. His death was a political necessity, poorly veiled beneath the guise of a private quarrel. Here, in his own State, among those who witnessed the late canvass, who know the contending leaders, among those who know the antagonists on the bloody ground—here, the public conviction is so thoroughly settled, that nothing need be said. Tested by the correspondence itself, there was no cause, in morals, in honor, in taste, by any code, by the custom of any civilized land, there was no cause for blood. Let me repeat the story—it is as brief as it is fatal: A Judge of the Supreme Court descends into a political convention—it is just, however, to say that the occasion was to return thanks to his friends for an unsuccessful support. In a speech bitter and personal he stigmatized Senator Broderick and all his friends in words of contemptuous insult. When Mr. Broderick saw that speech, he retorted, saying in substance, that he had heretofore spoken of Judge Terry as an honest man, but that he now took it back. When inquired of, he admitted that he had

so said, and connected his words with Judge Terry's speech as prompting them. So far as Judge Terry personally was concerned, this was the cause of mortal combat; there was no other.

In the contest which has just terminated in the State, Mr. Broderick had taken a leading part; he had been engaged in controversies very personal in their nature, because the subjects of public discussion had involved the character and conduct of many public and distinguished men. But Judge Terry was not one of these. He was no contestant; his conduct was not in issue; he had been mentioned but once incidentally—in reply to his own attack—and, except as it might be found in his peculiar traits or peculiar fitness, there was no reason to suppose that he could seek any man's blood. When William of Nassau, the deliverer of Holland, died in the presence of his wife and children, the hand that struck the blow was not nerved by private vengeance. When the fourth Henry passed unharmed amid the dangers of the field of Ivry, to perish in the streets of his capital by the hand of a fanatic, he did not seek to avenge a private grief. An exaggerated sense of personal honor—a weak mind with choleric passions, intense sectional prejudice united with great confidence in the use of arms—these sometimes serve to stimulate the instruments which accomplish the deepest and deadliest purpose.

Fellow-citizens! One year ago today I performed a duty, such as I perform today, over the remains of Senator Ferguson, who died as Broderick died, tangled in the meshes of the code of honor. Today there is another and more eminent sacrifice. Today I renew my protest; today I utter yours. The code of honor is a delusion and a snare; it palters with the hope of a true courage and binds it at the feet of crafty and cruel skill. It surrounds its victim with the pomp and grace of the procession, but leaves

him bleeding on the altar. It substitutes cold and deliberate preparation for courageous and manly impulse, and arms the one to disarm the other; it may prevent fraud between practiced duelists who should be forever without its pale, but it makes the mere "trick of the weapon" superior to the noblest cause and the truest courage. Its pretence of equality is a lie—it is equal in all the form, it is unjust in all the substance—the habitude of arms, the early training, the frontier life, the border war, the sectional custom, the life of leisure, all these are advantages which no negotiation can neutralize, and which no courage can overcome.

But, fellow-citizens, the protest is not only spoken, in your words and in mine—it is written in indelible characters; it is written in the blood of Gilbert, in the blood of Ferguson, in the blood of Broderick; and the inscription will not altogether fade.

With the administration of the code in this particular case, I am not here to deal. Amid passionate grief, let us strive to be just. I give no currency to rumors of which personally I know nothing; there are other tribunals to which they may well be referred, and this is not one of them. But I am here to say, that whatever in the code of honor or out of it demands or allows a deadly combat where there is not in all things entire and certain equality, is a prostitution of the name, is an evasion of the substance, and is a shield, emblazoned with the name of Chivalry, to cover the malignity of murder.

And now, as the shadows turn towards the East, and we prepare to bear these poor remains to their silent resting-place, let us not seek to repress the generous pride which prompts a recital of noble deeds and manly virtues. He rose unaided and alone; he began his career without family or fortune, in the face of difficulties; he inherited poverty and obscurity: he died a Senator in Congress, hav-

ing written his name in the history of the great struggle for the rights of the people against the despotism of organization and the corruption of power. He leaves in the hearts of his friends the tenderest and the proudest recollections. He was honest, faithful, earnest, sincere, generous and brave; he felt in all the great crises of his life that he was a leader in the ranks, that it was his high duty to uphold the interests of the masses; that he could not falter. When he returned from that fatal field, while the dark wing of the Archangel of Death was casting its shadows upon his brow, his greatest anxiety was as to the performance of his duty. He felt that all his strength and all his life belonged to the cause to which he had devoted them. "Baker," said he—and to me they were his last words—"Baker, when I was struck I tried to stand firm, but the blow blinded me, and I could not." I trust it is no shame to my manhood that tears blinded me as he said it. Of his last hour I have no heart to speak. He was the last of his race; there was no kindred hand to smooth his couch or wipe the death damp from his brow; but around that dying bed strong men, the friends of early manhood, the devoted adherents of later life, bowed in irrepressible grief, "and lifted up their voices and wept."

But, fellow-citizens, the voice of lamentation is not uttered by private friendship alone—the blow that struck his manly breast has touched the heart of a people, and as the sad tidings spread, a general gloom prevails. Who now shall speak for California?—who be the interpreter of the wants of the Pacific coast? Who can appeal to the communities of the Atlantic who love free labor? Who can speak for masses of men with a passionate love for the classes from whence he sprung? Who can defy the blandishments of power, the insolence of office, the corruption of administrations? What hopes are buried with him in the grave!

"Ah! who that gallant spirit shall resume,
Leap from Eurotas' bank, and call us from the tomb?"

But the last word must be spoken, and the imperious mandate of Death must be fulfilled. Thus, O brave heart! we bear thee to thy rest. Thus, surrounded by tens of thousands, we leave thee to the equal grave. As in life, no other voice among us so rung its trumpet blast upon the ear of freemen, so in death its echoes will reverberate amid our mountains and valleys, until truth and valor cease to appeal to the human heart.

Good friend! true hero! hail and farewell.

PERSONS WHO HAVE FURNISHED WRITTEN STATEMENTS

General Harry Worthington

Isaac R. Hitt

General Daniel E. Sickles

General P. C. Rust

Mrs. John A. Logan

Colonel W. B. Shaw

George H. Rogers

George T. Knox

Chas. W. Kendall

John H. Wise

John Daggett

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Early Days and Men in California, SWASEY
Broderick and Gwin, O'MEARA
Every Paper Published in San Francisco During the Week of the Duel and Death
A Complete Transcript of Broderick's, SENATORIAL RECORD

INDEX

Pages

Ashe, R. P., his evidence in the Terry trial.....135-136
Baker, E. D., defends Cora, 1856.....108-109
Ballot Box Frauds..... 138
Benham, Calhoun, mention of.....206, 220
Bigler, Gov. John, concedes patronage to Broderick... 70
Mention of 84
Broderick, David Colbert, anecdotes of.....85, 86
Attitude of the press on his refusal to accept the challenge of Terry..... 204
Attitude towards Kansas and Slavery questions 167
Challenge of Terry.....203-204
Change in politics towards the close of his career 191-193
Character of his supporters..... 79
Chosen United States Senator, 1857..... 154
Contest for the Senate of the United States..144-154
Death of 224
Duel with J. Caleb Smith..... 54
Duel with David S. Terry, *see* Broderick-Terry duel.
Early history of.....29-36
Elected Senator to California Legislature.....28, 50
Encounter with Moore.....51-52
Encounter with Peyton.....85-86
Entertained at Salt Lake City.....184-185
Establishes a private mint in San Francisco....48-49
Friendship for Stephen J. Field.....57-58
Funeral ceremonies 225-226

INDEX

BRODERICK, DAVID COLBERT (continued) Pages
In Washington 158-162, 166-181
Influence with the Democratic party.....71-75
Leaves Washington 192
Makes a canvass of California.....194-195
Mysteriously assaulted in New York..... 192
Personal bravery 83
Personal description.....39, 67-69
Platform as Senator.....191-192
Relations with William M. Gwin.....87-88, 196-198
Relations with George Wilkes.....142-143
Removed from the Committee on Public Lands 185-187
Replies to Terry's letter of September 8, 1859... 206
Secures settlement of Frémont's claims..... 180
Simplicity of his tastes and habits.....164-165
Speech on slavery.....171-176
Speeches written by George Wilkes denied...177-178
Supports Terry during the trial of the latter by the Vigilance Committee..... 141
Voyage of, to California.....36-38
BRODERICK-TERRY duel.....213-224
Articles of engagement.....209-210
Description of weapons used in.....213-215
Immediate origin of.....202-203
Scene on the field of.....216-223
BROOKS, SAMUEL H., present at the Broderick-Terry duel 219
BULLETIN, *see* Evening *Bulletin*.
BUCARELI, *Viceroy*, sends vessel to California..... 9
CALIFORNIA, admitted to the Union..... 28
Constitution of 1849.....26-27
Constitutional delegation 27
Early history of..... 1-4
Early lynch law in.....22-23

INDEX

Pages

California (continued)
Election of 1853 72
Indians 10
Immigration 23-26
Latin population of 21-22
Life in 1849. Society, manners and customs ... 44-48
Missions 12-13
Progress of, described 61-66
Senatorial vote, 1857 151
State Democratic Convention of 1854, remarkable proceedings of 81-84
Casey, James P., assassinates James King *of William* 112-116
Coleman, William T., mention of 120
Colton, David, mention of 211
Cora, Charles, assassinates Richardson 108
Correspondence leading to the Broderick-Terry duel 205-209
Crime in California, *see* Punishment.
Custom House of San Francisco 91
Daggett, John, statement of 214-215
Donner party 17
Douglas, Stephen M. 168-169
Drake, Sir Francis, mention of 3
Early party politics in California, *see* Party Politics.
Eastern opinions regarding crime in California in 1856 110-111
Election of 1856 144
Evening *Bulletin* of San Francisco established by James King *of William* 113
Statement in, regarding James P. Casey 114
Ferguson, W. I., fatal duel with Geo. Pen Johnston 183-184
Friendly relations with Broderick 182-184

INDEX

Pages

FIELD, STEPHEN J., becomes Justice of the Supreme Court of California, 1858 163
His encounter with B. F. Moore averted by Broderick 56-59
FREMONT, JOHN C., military journey from Monterey to Los Angeles 15-16
United States Senator, 1849 27
GAMBLING in California 104-106
GOLD discovered in California 17-20
GREWELL, JACOB, Senator from Santa Clara, defeats Broderick's political plans 75-78
GWIN, WILLIAM M., arrival in California 89
Duel with J. W. McCorkle 91-92
Famous letter to Broderick 156-157, 184-185, 196
Member of the Constitutional Convention in 1849 90
Personal appearance and history 89-90
Political antagonist of Broderick 87-88, 195-196
HASKELL, LEONIDAS, friend in whose house Broderick's death occurred 223
HERALD, *see* San Francisco *Herald.*
HOPKINS, S. A., stabbed by David S. Terry 131-132
INDIANS, *see* California.
KING *of William,* JAMES, death of 121
Personal history of 112-113
LATHAM, MILTON S., mention of 95
"LAW AND ORDER" Party 131, 137-138
MCCORKLE, J. W., duel with William M. Gwin 91-92
MCDOUGALL, JOHN, chairman of State Democratic Convention of 1854 82
Favorable to the Vigilance Committee of 1851 .100-101
MCGOWAN, EDWARD, evades the Vigilance Committee 130-131
Mention of 82

INDEX

Pages

McKibben, J. C., mention of 209
Moore, B. F., antagonistic to Broderick 51
Attitude towards Field 57-59
Moore, Elliott, J., mention of 219
Party politics in California 92-95
Perley, D. W., mention of 202-203
Peyton, Balie, encounter with Broderick 85-86
Portola, Gaspar de 6
Punishment of crime in California, statistics of 111
Richardson, W. H., assassinated by Charles Cora 107
San Francisco Custom House called "Virginia Poor House" 91
Herald, Anti-Vigilante 125-126
Vigilance Committee, *see* Vigilance Committee.
Serra, Junipero, in California 5-9, 11
Sherman, William T., mention of 124
Sickles, Daniel E., recollections of Broderick 34
Smith, J. Caleb, duel with Broderick 54
Stella, pioneer vessel 38
Stevenson's regiment 17
Sutter, John A., mention of 43
Sutter's Fort, description of 42-43
Terry, David S., attempts the murder of Hopkins ... 131-133
Arrested by the Vigilance Committee 132-133
Duel with Broderick 213-224
Justice of the Supreme Court of California ... 95-200
Letter to Broderick, September 8, 1859 205
Mention of 83
Personal history of 199-200
Resigns from the Supreme Court of California .. 205
Speech before the Lecompton Convention 201
Statement to the Vigilance Committee 133-135
Trial by the Vigilance Committee, verdict and judgment 136-137

INDEX

Pages

TILFORD, FRANK, Broderick's chief political supporter.. 149
VIGILANCE COMMITTEE of 1851, actions of.....100-102
Causes of organization of.....96-98
Declaration of 99
Justification of 106-107
VIGILANCE COMMITTEE of 1856, actions of.....117-139
Disbands 139
Justification of 126-127
"VIRGINIA POOR HOUSE," *see* San Francisco Custom House.
WALKER, WILLIAM, filibuster, friend of Broderick..... 78
WELLER, JOHN B., chosen to succeed Frémont in 1851 .....54, 90-91
WILKES, GEORGE, relations with Broderick.....141-143